Tab 1	**SB 56** by **Harrell**; (Compare to CS/H 00241) Coverage for Skin Cancer Screenings

408314	D	S	RCS	BI, Harrell	Delete everything after	01/23 06:18 PM

Tab 2	**SB 662** by **Burton**; (Similar to H 00977) Virtual Currency Kiosk Businesses

742132	D	S	RCS	BI, Burton	Delete everything after	01/23 06:18 PM
555140	AA	S	RCS	BI, Burton	Delete L.112 - 117:	01/23 06:18 PM

Tab 3	**SB 1074** by **Calatayud**; (Identical to H 01031) Debt Relief Services

524590	D	S	RCS	BI, Calatayud	Delete everything after	01/23 06:18 PM

Tab 4	**SB 1078** by **DiCeglie**; (Compare to H 00991) Public Records/Cellular Telephone Numbers Held by the Department of Financial Services

Tab 5	**SB 1098** by **DiCeglie**; (Similar to H 00989) Department of Financial Services

430616	D	S	RCS	BI, DiCeglie	Delete everything after	01/23 06:18 PM

Tab 6	**SB 1104** by **Bradley**; (Similar to H 01149) Policy Cancellations and Nonrenewals by Property Insurers

Tab 7	**SB 1336** by **Grall**; (Identical to H 01253) Interest on Trust Accounts

878516	A	S	UNFAV	BI, Thompson	Delete L.40 - 50.	01/23 04:58 PM

Tab 8	**SB 1436** by **Burton**; (Similar to H 01347) Consumer Finance Loans

Tab 9	**SB 1716** by **Boyd**; (Similar to H 01503) Citizens Property Insurance Corporation

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 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 56** Harrell (Compare CS/H 241)	Coverage for Skin Cancer Screenings; Requiring health insurance policies; group, blanket, and franchise health insurance policies; and health maintenance contracts, respectively, to provide coverage and payment for annual skin cancer screenings performed by a licensed dermatologist without imposing any cost-sharing requirement; specifying a requirement for and a restriction on payments for such screenings, etc. BI 01/22/2024 Fav/CS HP AP	Fav/CS Yeas 9 Nays 0
2	**SB 662** Burton (Similar H 977, Compare H 1059, Linked S 1182)	Virtual Currency Kiosk Businesses; Requiring the Office of Financial Regulation of the Financial Services Commission to supervise registrants; prohibiting a virtual currency kiosk business from operating without registering with the state; requiring certain entities to be licensed as money services businesses; specifying application requirements for registering as a virtual currency kiosk business; specifying requirements for specified disclosures and attestations displayed by the virtual currency kiosk, etc. BI 01/22/2024 Fav/CS AEG FP	Fav/CS Yeas 9 Nays 0
3	**SB 1074** Calatayud (Identical H 1031)	Debt Relief Services; Specifying that provisions for enforcement of violations involving credit counseling services or debt management services do not apply to debt relief services; authorizing the Attorney General to bring certain actions for violations of specified federal regulations of debt relief services, etc. BI 01/22/2024 Fav/CS CM RC	Fav/CS Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 1078** DiCeglie (Compare H 991)	Public Records/Cellular Telephone Numbers Held by the Department of Financial Services; Providing an exemption from public records requirements for cellular telephone numbers relating to records of certain insurance-related licensures held by the Department of Financial Services; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. BI 01/22/2024 Favorable GO RC	Favorable Yeas 9 Nays 0
5	**SB 1098** DiCeglie (Similar H 989, Compare H 991, H 1263, S 7028)	Department of Financial Services; Renaming the Division of Investigative and Forensic Services in the Department of Financial Services as the Division of Criminal Investigations; revising requirements for My Safe Florida Home Program mitigation inspections and mitigation grants; providing requirements for certain contracts entered into and purchases made by the Florida Joint Underwriting Association; revising the duties of the State Fire Marshal; revising the date on which stocks and other equity interests in business associations are presumed unclaimed, etc. BI 01/22/2024 Fav/CS AEG FP	Fav/CS Yeas 9 Nays 0
6	**SB 1104** Bradley (Similar H 1149)	Policy Cancellations and Nonrenewals by Property Insurers; Prohibiting insurers from canceling and nonrenewing within certain timeframes policies covering commercial properties damaged by hurricanes and wind losses; prohibiting eligible surplus lines insurers from canceling and nonrenewing within certain timeframes policies covering dwellings and residential properties damaged by hurricanes and wind losses; providing that such prohibition applies to flood damages caused by hurricanes, etc. BI 01/22/2024 Favorable JU RC	Favorable Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**SB 1336** Grall (Identical H 1253)	Interest on Trust Accounts; Requiring the Chief Financial Officer to set the rate of interest payable by eligible institutions on interest on trust accounts quarterly, effective on specified dates; providing that the percentage yield of such rate may not exceed a specified threshold; requiring the Chief Financial Officer to inform Funding Florida Legal Aid of the rate established for the quarter; requiring that such institutions submit to Funding Florida Legal Aid a certain form promulgated by The Florida Bar, etc. BI 01/22/2024 Favorable AEG FP	Favorable Yeas 8 Nays 2
8	**SB 1436** Burton (Similar H 1347)	Consumer Finance Loans; Defining the term “branch”; prohibiting a person from operating a branch of a business making consumer finance loans before obtaining a license from the Office of Financial Regulation; specifying application fees for branch licenses; requiring licensees offering an assistance program to borrowers after a federally declared disaster to send a specified notice to the office within a certain timeframe; requiring certain licensees to suspend specified actions for a certain timeframe after a federally declared disaster, etc. BI 01/22/2024 Favorable AEG FP	Favorable Yeas 7 Nays 2
9	**SB 1716** Boyd (Similar H 1503, Compare H 1213)	Citizens Property Insurance Corporation; Providing that certain accounts for Citizens Property Insurance Corporation revenues, assets, liability, losses, and expenses are now maintained as the Citizens account; revising the requirements for certain coverages by the corporation; deleting provisions relating to emergency assessments upon determination of projected deficits; deleting provisions relating to funds available to the corporation as sources of revenue and bonds; revising eligibility for commercial lines residential risks coverage by the corporation, etc. BI 01/22/2024 Temporarily Postponed AEG FP	Temporarily Postponed
	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 56
INTRODUCER:	Senate Committee on Banking and Insurance and Senator Harrell
SUBJECT:	Coverage for Skin Cancer Screenings
DATE:	January 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Fav/CS**
2.			HP	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 56 requires all contracted state group health insurance plans and HMO's to cover and pay for annual skin cancer screenings performed by a Florida licensed dermatologist. The bill prohibits an insurer or HMO from imposing any cost-sharing requirement for the annual skin cancer screening, including a deductible, copayment, coinsurance, or any other type of cost-sharing. The provider conducting the screening must be a dermatologist licensed as a medical doctor under chapter 458, F.S., or an osteopathic physician licensed under chapter 459, F.S, or an advanced practice registered nurse licensed under chapter 464 who is under the supervision of a dermatologist licensed under chapter 458 or chapter 459.

The bill requires payment for such annual skin cancer screenings to be consistent with the insurer's or HMO's payments for other preventive screenings. Additionally, the bill prohibits the insurer or HMO from bundling a payment for a skin cancer screening with any other procedure or service, including an evaluation or management visit, which is performed during the same office visit or subsequent office visit.

The Division of State Group Insurance within the Department of Management Services (DMS) estimates that the bill will result in an annual increase of $357,580 on the state employee group health plan.

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

II. Present Situation:

Background

Skin cancer is the most common cancer in the United States.[1] Approximately one in five Americans will develop skin cancer in their lifetime.[2] It is estimated that approximately 9,500 people in the U.S. are diagnosed with skin cancer every day.[3] Nearly 20 Americans die from melanoma every day.[4] Cancer is the second most common cause of death in the United States after heart disease and in 2023, a total of 1.9 million new cancer cases were diagnosed. Of the estimated new cancer cases in the United States, 5 percent were skin cancer cases.[5]

Basal cell and squamous cell cancers are called nonmelanoma skin cancer, and are the most common of skin cancers. Melanoma accounts for about 1 percent of skin cancers but causes a large majority of skin cancer deaths.[6] The long term survival rate of those diagnosed with skin cancer after 5 years is high at 93.5 percent and more than 1.4 million people were identified in the United States in 2020 as living with this cancer.[7] The more localized the cancer is when it is found, meaning the cancer has been confined to a primary spot, the higher the survival rate is compared to a cancer that has spread to the regional lymph nodes or metastasized to another region of the body.[8]

For Florida, the estimated new cases of melanoma skin cancer for 2023 is 9,640 with projected deaths of 680 individuals.[9] Of the top five cities in the U.S. for skin cancer prevalence rate, four are in Florida – Sarasota-Bradenton (10 percent), Fort Pierce-Port St. Lucie (9.5 percent), West Palm Beach-Boca Raton (9.5 percent), and Melbourne-Titusville-Palm Bay (8.6 percent).[10]

Skin Cancer Screening

During a skin cancer screening test, a doctor or nurse checks a patient's skin for moles, birthmarks, or other pigmented areas that may be abnormal in color, size, shape, or texture. If an area looks abnormal, a biopsy of the area may be done where the health care provider may

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[1] Guy GP, Thomas CC, et al., *Vital signs: Melanoma incidence and mortality trends and projections – United States, 1982-2030,* MMWR Morb Mortal Wkly Rep. 2015;64(21):591-596.
[2] Sterns RS, *Prevalence of a history of skin cancer in 2007: results of an incidence-based model*, Arch Dermatol. 2010 Mar.;146(3):279-282.
[3] Rogers HW, Weinstock MA, et al., *Incidence estimate of nonmelanoma skin cancer (keratinocyte carcinomas) in the US population*, JAMA Dermatol, April 30, 2015, available at https://pubmed.ncbi.nlm.nih.gov/25928283/ (last viewed on January 18, 2024).
[4] https://www.cancercenter.com/community/blog (last viewed January 18, 2024).
[5] *Id.*
[6] American Cancer Society, *Key Statistics for Melanoma Skin Cancer*, available at https://www.cancer.org/melanoma-skin-cancer/about/key-statistics.html (last viewed on January 18, 2024).
[7] National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin*, available at https://seer.cancer.gov/statfacts/html/melan.html (last viewed January 18, 2024).
[8] National Cancer Institute, Cancer Stat Facts: Melanoma of the Skin, *Survival by State*, available at https://seer.cancer.gov/statfacts/html/melan.html (last viewed January 18, 2024).
[9] American Cancer Society, Cancer Statistics Center, *Estimated New Cancer Cases and Deaths by States (sexes combined, Florida) (data run on January 18, 2024)* available at Cancer Statistics Center - American Cancer Society (last viewed January 18, 2024).
[10] *Id.*

remove as much of the suspicious tissue as possible with a local excision. A pathologist reviews this tissue under a microscope to check for cancer cells.[11]

In Illinois, where preventative skin cancer screenings are covered by health insurance companies, a large dermatology practice reports a 99.15% (stage 0-2) early melanoma detection rate compared to the industry average early melanoma detection rate of 83.00%.[12] This results in a 97.9% five-year melanoma survival rate compared to industry average 87.0% five-year melanoma survival rate.[13]

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.[14] As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[15] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[16] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[17] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.[18]

The Agency for Health Care Administration (AHCA) regulates the quality of care by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.[19] As part of the certificate process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.[20]

[11] National Cancer Institute, *Skin Cancer Screening (PDQ) – Patient Version*, available at Skin Cancer Screening - NCI (last viewed January 18, 2024).
[12] Almutairi, et al. Economic Evaluation Patients with Advanced Unresectable Melanoma versus Economic valuation of Talimogene Laherparepvec Plus Ipilimumab Combination Therapy vs Ipilimumab Monotherapy in Patients With Advanced Unresectable Melanoma. JAMA Dermatology. January 2019; 155(1):22-28.
[13] *Id.*
[14] Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the Financial Services Commission appoints the commissioner of the Office of Insurance Regulation.
[15] Section 624.418, F.S.
[16] Section 624.316(1)(a), F.S.
[17] Section 624.318(2), F.S.
[18] Section 624.3161, F.S.
[19] Section 641.21(1)(1), F.S.
[20] Section 641.495, F.S.

Patient Protection and Affordable Care Act

Essential Benefits

Under the Patient Protection and Affordable Care Act (PPACA),[21] all non-grandfathered health plans in the non-group and small-group private health insurance markets must offer a core package of health care services known as the essential health benefits (EHBs). While not specifying the benefits within the EHB, the PPACA provides 10 categories of benefits and services which must be covered and then required the Secretary of Health and Human Services to further define the EHB.[22]

The 10 EHB categories are:

- Ambulatory patient services.
- Emergency services.
- Hospitalization.
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment.
- Prescription drugs.
- Rehabilitation and habilitation services.
- Laboratory services.
- Preventive and wellness services and chronic disease management.
- Pediatric services, including oral and vision care.

PPACA requires each state to select its own reference benchmark plan as its EHB benchmark plan which all other health plans in the state use as a model. Beginning in 2020, states could choose a new EHB plan using one of three options, including: selecting another's state benchmark plan; replacing one or more categories of EHB benefits; or selecting a set of benefits that would become the State's EHB benchmark plan.[23] Florida selected its EHB plan before 2012 and has not modified that selection.[24]

State Insurance Coverage Mandates

If a state elects to amend its benchmark plan later by imposing a statutory mandate to cover a new service, PPACA requires the state to pay for the additional costs of that mandate for the entire industry.[25] According to a recent study, only two states have chosen to enhance their EHB

[21] Affordable Care Act, (March 23, 2010), P.L.111-141, as amended.
[22] 45 CFR 156.100. et seq.
[23] Centers for Medicare and Medicare Services, *Marketplace – Essential Health Benefits,* available at https://www.cms.gov/marketplace/resources/data/essential-health-benefits (last reviewed January 18, 2024).
[24] Centers for Medicare and Medicaid Services, *Information on Essential Health Benefits (EHB) Benchmark Plans,* Florida State Required Benefits, available at https://downloads.cms.gov/cciio/State%20Required%20Benefits_FL.pdf (last viewed on January 18, 2024).
[25] 42 U.S.C. section 1803 U.S. Preventive Services Task Force, *Skin Cancer Prevention: Behavioral Counseling (March 20, 2018)* available at Recommendation: Skin Cancer Prevention: Behavioral Counseling | United States Preventive Services Taskforce (uspreventiveservicestaskforce.org) (last reviewed January 18, 2024).

benchmark plans and have incurred the additional benefits penalty: Utah and Massachusetts.[26] Utah, for example, added a coverage mandate for applied behavioral analysis therapy for individuals with autism in 2014 and subsequently implemented a state rule to allow the state to reimburse the estimated five affected carriers for the autism claims with state funds.[27]

Annually, the federal Centers for Medicare and Medicaid Services issues a *Notice of Benefit and Payment Parameters (NBPP)* for the next plan year. The NBPP typically includes minor updates to coverage standards, clarifications to prior policy statements, and announcements relating to any major process changes. For the 2025 Plan Year which begins on January 1, 2025, the NBPP proposes to codify that any new, additional benefits included in a state's EHB plan would *not* be considered an addition to the state's EHB, and therefore not subject to the PPACA provision requiring the state to defray the cost for the industry.[28] This change is part of a proposed rule which has not yet been finalized, so it is unclear whether the PPACA state defrayal provision will apply in future.[29]

State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) administers the state group health insurance program (Program).[30] The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.[31] To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s.110.12315, F.S.

The state employee health plan contracts currently cover dermatology visits and skin cancer screenings as a specialist office visit. Depending on the plan chosen by the employee, the appropriate out of pocket cost or costs then applies for the specialist office visit.[32]

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[26] California Health Benefits Program, (CHBRP) (August 2023), *Issue Brief: Essential Health Benefits: Exceeding EHBs and the Defrayal Requirement,* p.2. available at *https://www.chbrp.org/sites/default/files/2023-08/EHB_Defrayal_FINAL.pdf* (last viewed January 18, 2024).

[27] Utah Admin. Code R590-283 – Notice of Proposed Rule (November 1, 2019), available at DAR File No. 44181 (Rule R590-283), 2019-22 Utah Bull. (11/15/2019)DAR File No. 44181 (Rule R590-283), 2019-22 Utah Bull. (11/15/2019) (last viewed January 18, 2024).

[28] CMS.GOV, *HHS Notice of Benefit and Payment Parameters for 2025 Proposed Rule (November 15, 2023),* available at https://www.cms.gov/newsroom/fact-sheets/hhs-notice-benefit-and-payment-parameters-2025-proposed-rule (last viewed January 18, 2024).

[29] Patient Protection and Affordable Care Act, *HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program, and Basic Health Program*, 88 Fed. Reg. 82510, 82553, 82630-82631, 82649, 82653-82654 (November 24, 2023)(to be codified at section 45 CFR 155.170 and 156.11).

[30] Section 110.123, F.S.

[31] A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.

[32] Department of Management Services, *Agency Bill Analysis – HB 241/SB 56 (January 12, 2024) (on file with the Senate Committee on Banking and Insurance).*

Legislative Proposals for Mandated Health Benefit Coverage

Any person or organization proposing legislation which would mandate health coverage or the offering of health coverage by an insurance carrier, health care service contractor, or health maintenance organization (HMO) as a component of individual or group policies, must submit to AHCA and the legislative committees having jurisdiction a report which assesses the social and financial impacts of the proposed coverage.33 Guidelines for assessing the impact of a proposed mandated or mandatorily offered health coverage, to the extent that information is available, must include:

- To what extent is the treatment or service generally used by a significant portion of the population.
- To what extent is the insurance coverage generally available.
- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment.
- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship.
- The level of public demand for the treatment or service.
- The level of public demand for insurance coverage of the treatment or service.
- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.
- To what extent will the coverage increase or decrease the cost of the treatment or service.
- To what extent will the coverage increase the appropriate uses of the treatment or service.
- To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service.
- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.
- The impact of this coverage on the total cost of health care.[34]

Proponents of the bill submitted a report to the Senate Committee on Banking and Insurance on March 7, 2023, to comply with s. 624.215, F.S., addressing the guidelines for assessing the impact of the proposed annual skin cancer screening mandated benefit, at no cost to the insured.[35]

III. Effect of Proposed Changes:

The bill requires all contracted state group health insurance plans and HMO's to cover and pay for annual skin cancer screenings performed by a Florida licensed dermatologist. The bill prohibits an insurer or HMO from imposing any cost-sharing requirement for the annual skin cancer screening, including a deductible, copayment, coinsurance, or any other type of cost-sharing. The provider conducting the screening must be a dermatologist licensed as a medical doctor under chapter 458, F.S., or an osteopathic physician licensed under chapter 459, F.S, or an

[33] Section 624.215(2), F.S.
[34] Section 624.215(2)(a)-(l), F.S.
[35] Florida Academy of Dermatology, *Coverage for Skin Cancer Screenings*, March 2023 (Report submitted pursuant to s. 624.215, F.S.) *(on file with the Senate Committee on Banking and Insurance).*

advanced practice registered nurse licensed under chapter 464 who is under the supervision of a dermatologist licensed under chapter 458 or chapter 459, F.S.

The bill requires payment for such annual skin cancer screenings to be consistent with the insurer's or HMO's payments for other preventive screenings as defined by the Current Procedural Terminology code set of the American Medical Association. Lastly, the bill prohibits such insurers and HMOs from bundling a payment for skin cancer screenings with any other procedure or service performed during the same or a subsequent office visit as the screening.

The bill 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 inclusion of coverage for skin cancer screenings with cost sharing restrictions may positively impact physicians who likely will see an increased demand for their services as well as collateral and ancillary medical supports such as laboratories and diagnostic offices which will be called upon to process additional lab slips, biopsies, and scans.

The intent of the bill is to save costs, as well as lives, by detecting and treating skin cancers earlier.

C. Government Sector Impact:

The Division of State Group Insurance within the Department of Management Services (DMS) administers the State Group Insurance Program (SGI Program). For the state employee group health plan, the DMS has estimated an annual increase of $357,580 for no cost sharing liability in the coverage of annual skin cancer screenings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 110.12303.

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 22, 2024:
The committee substitute removes the entire substance of the bill and amends s. 110.12303, F.S., to provide that the provisions of the bill as filed apply only to the contracted state group health insurance plans and HMOs.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
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The Committee on Banking and Insurance (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (5) is added to section 110.12303, Florida Statutes, to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(5)(a) Effective January 1, 2025, the department shall require all contracted state group health insurance plans and

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HMOs to provide coverage and payment, without imposing a deductible, a copayment, coinsurance, or any other cost-sharing requirement on the covered individual, for annual skin cancer screenings performed by a dermatologist licensed under chapter 458 or chapter 459, or by a physician assistant licensed under chapter 458 or chapter 459 or an advanced practice registered nurse licensed under chapter 464 who is under the supervision of a dermatologist licensed under chapter 458 or chapter 459. Payment for such screenings must be consistent with the manner in which the state group health insurance plan or HMO pays for other preventive screenings as provided by the American Medical Association's Current Procedural Terminology code set.

(b) A state group health insurance plan or HMO participating under this section may not bundle a payment for skin cancer screenings performed under this subsection with any other procedure or service, including, but not limited to, an evaluation and management visit that is performed during the same office visit or a subsequent office visit.

Section 2. 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 coverage for skin cancer screenings; amending s. 110.12303, F.S.; requiring the Department of Management Services to provide coverage and payment through state employee group health

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insurance contracts for certain annual skin cancer screenings, without imposing a cost-sharing requirement; specifying a requirement for and a restriction on payments for such screenings; providing an effective date.

By Senator Harrell

31-00178-24 202456__

A bill to be entitled

An act relating to coverage for skin cancer screenings; creating ss. 627.64198, 627.66912, and 641.31091, F.S.; requiring health insurance policies; group, blanket, and franchise health insurance policies; and health maintenance contracts, respectively, to provide coverage and payment for annual skin cancer screenings performed by a licensed dermatologist without imposing any cost-sharing requirement; specifying a requirement for and a restriction on payments for such screenings; providing an effective date.

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

Section 1. Section 627.64198, Florida Statutes, is created to read:

627.64198 Coverage for skin cancer screenings; required coverage and payment.—

(1) A health insurance policy issued or renewed on or after January 1, 2025, must provide coverage and payment, without imposing a deductible, copayment, coinsurance, or any other cost-sharing requirement, for annual skin cancer screenings performed by a dermatologist licensed pursuant to chapter 458 or chapter 459. Payment for such screenings must be consistent with the insurer's payments for other preventive screenings as defined by the Current Procedural Terminology code set of the American Medical Association.

(2) An insurer may not bundle a payment for skin cancer

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

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screenings performed pursuant to subsection (1) with any other procedure or service, including an evaluation and management visit, that is performed during the same office visit or a subsequent office visit.

Section 2. Section 627.66912, Florida Statutes, is created to read:

627.66912 Coverage for skin cancer screenings; required coverage and payment.—

(1) A group, blanket, or franchise health insurance policy issued or renewed on or after January 1, 2025, must provide coverage and payment, without imposing a deductible, copayment, coinsurance, or any other cost-sharing requirement, for annual skin cancer screenings performed by a dermatologist licensed pursuant to chapter 458 or chapter 459. Payment for such screenings must be consistent with the insurer's payments for other preventive screenings as defined by the Current Procedural Terminology code set of the American Medical Association.

(2) An insurer may not bundle a payment for skin cancer screenings performed pursuant to subsection (1) with any other procedure or service, including an evaluation and management visit, that is performed during the same office visit or a subsequent office visit.

Section 3. Section 641.31091, Florida Statutes, is created to read:

641.31091 Coverage for skin cancer screenings; required coverage and payment.—

(1) A health maintenance contract issued or renewed on or after January 1, 2025, must provide coverage and payment, without imposing a deductible, copayment, coinsurance, or any

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

other cost-sharing requirement, for annual skin cancer screenings performed by a dermatologist licensed pursuant to chapter 458 or chapter 459. Payment for such screenings must be consistent with the health maintenance organization's payments for other preventive screenings as defined by the Current Procedural Terminology code set of the American Medical Association.

(2) A health maintenance organization may not bundle a payment for skin cancer screenings performed pursuant to subsection (1) with any other procedure or service, including an evaluation and management visit, that is performed during the same office visit or a subsequent office visit.

Section 4. This act shall take effect July 1, 2024.

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

2024 AGENCY LEGISLATIVE BILL ANALYSIS
AGENCY: Department of Management Services

BILL INFORMATION	
BILL NUMBER:	SB 56
BILL TITLE:	Coverage for Skin Cancer Screening
BILL SPONSOR:	Senator Harrell
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE
1) Banking and Insurance
2) Health Policy
3) Appropriations
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	HB 241
SPONSOR:	Representative Massullo, MD

PREVIOUS LEGISLATION	
BILL NUMBER:	SB 142 / HB 785
SPONSOR:	Senator Harrell / Representative Massullo, MD.
YEAR:	2023
LAST ACTION:	Died in Committee

Is this bill part of an agency package?

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 12, 2024
LEAD AGENCY ANALYST:	Jeff Ivey, Director of Legislative Affairs
ADDITIONAL ANALYST(S):	Greg Mauldin, Interim Director, Division of State Group Insurance (DSGI) Anna Cleveland, DSGI Policy Administrator
LEGAL ANALYST:	Jennifer Perkins, Assistant General Counsel
FISCAL ANALYST:	Lance Dyal, Director of Finance and Administration

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Requires individual health insurers, group health insurers including small employer groups and health maintenance organizations with health policies issued or renewed on or after January 1, 2025, to provide coverage and payment for annual skin cancer screenings performed by a licensed dermatologist without imposing a cost-sharing requirement.

Provides an effective date of July 1, 2024.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Under the authority of section (s.) 110.123, Florida Statutes (F.S.), the Department of Management Services, through the Division of State Group Insurance (DSGI), administers the state group health insurance program (Program) under a cafeteria plan consistent with section 125, Internal Revenue Code.

To administer the Program, DSGI contracts with third party administrators for self-insured health plans, a fully insured HMO, and a pharmacy benefits manager (PBM) for the state employees' Self-Insured Prescription Drug Program (PDP) pursuant to s. 110.12315, F.S.

DSGI Health plans currently cover dermatology and annual skin cancer screenings as a specialist visit. Specialist copays apply to these visits.

2. EFFECT OF THE BILL:

Section 1: Creates s. 627.64198, F.S.; applies to individual health insurance; does not impact the DSGI.

SB 56 creates s. 627.66912, F.S and s 641.31091, F.S., and would require (1) Group, blanket, or franchise health insurance policy issued or renewed on or after January 1, 2025, and (2) a health maintenance contract issued or renewed on or after January 1, 2025, to cover and pay for annual skin cancer screenings performed by a licensed dermatologist pursuant to chapters 458 or 459. The bill prohibits an insurer or HMO from imposing any cost-sharing requirement for the annual skin cancer screening, including a deductible, copayment, coinsurance, or any other type of cost sharing.

The bill requires payment for such annual skin cancer screenings to be consistent with the insurer's or HMO's other preventive screenings as defined by the Current Procedural Terminology code set of the American Medical Association. Lastly, the bill prohibits insurers and HMOs from bundling a payment for skin cancer screenings with any other procedure or service performed during the same or a subsequent office visit as the screening.

Provides an effective date of July 1, 2024.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

Y ☐ N X

If yes, explain:	Click or tap here to enter text.
What is the expected impact to the agency's core mission?	Click or tap here to enter text.
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

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

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS LEGISLATION? Y ☐ N X

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Appointee Team:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE LEGISLATION HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? **Y ☐ N X**

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees?	Click or tap here to enter text.
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?	Click or tap here to enter text.

2. DOES THE LEGISLATION HAVE A FISCAL IMPACT TO STATE GOVERNMENT? **Y X N ☐**

Revenues:	N/A
Expenditures:	Based on an analysis by the health plans' actuaries, the estimated Fiscal Impact of $357,580.00 annually to DSGI health insurance program, if there is no cost sharing liability for the coverage of annual skin cancer screenings.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

Health Plan	**Member count utilized for fiscal analysis by health plan**	**Per Member Per Month (PMPM)**	**Annual increase**
Self-Insured Plans			
United Health Care	56,000	$0.14	$39,000.00
Aetna	60,225	$0.07	$53,758.00
Florida Blue	151,290	$0.14	$256,000.00
Fully Insured Plans			
Capital Health Plan	54,073	$0.014	$8,822.00
Total			**$357,580.00**

3. DOES THE LEGISLATION HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? **Y X N ☐**

Revenues:	Click or tap here to enter text.
Expenditures:	This bill requires the health insurance providers to cover without imposing a deductible, copayment, coinsurance, or cost-sharing requirement. Since there is no cost share then the insurance provider will be responsible for the entire payment to the dermatologist.

Other:	Click or tap here to enter text.

4. DOES THE LEGISLATION INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N X

Does the bill increase taxes, fees or fines?	Click or tap here to enter text.
Does the bill decrease taxes, fees or fines?	Click or tap here to enter text.
What is the impact of the increase or decrease?	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

5. ACTUARIAL STATEMENT OF FISCAL SOUNDNESS (RETIREMENT ONLY) **FRS ☐ OR LOCAL ☐**

Does the bill comply with the requirements of Article X, Section 14 of the Constitution?	**Y ☐ N ☐**
Does the bill satisfy the actuarial cost impact provisions of Chapter 112, Part VII, Florida Statutes pending completion of actuarial impact statements?	**Y ☐ N ☐**
Explanation:	Click or tap here to enter text.
Fiscal Note:	Click or tap here to enter text.
Signature: Company or Organization: Date:	Click or tap here to enter text.

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	System updates may be necessary for health plans to implement the program changes.

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.	

ADDITIONAL COMMENTS

Additional Effect of the Bill: In section 2 of each of the three portions of the bill it states, "an insurer may not bundle a payment for skin cancer screenings performed [under the bill] with any other procedure."

Currently, State Group Insurance companies do bundle payments based on the primary codes and there is no CPT code for "skin cancer screenings." As a result, they may have to manually review clinical records to input these changes and update several systems and processes.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Does the proposed legislation conflict with existing federal law, or regulations? If so, what laws and/or regulations?	No. According to the CDC, the U.S. Preventive Services Task Force (USPSTF) has concluded there is not enough evidence to recommend for or against routine screening to find skin cancers early and Medicare does not cover skin cancer screenings.
Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)?	No
Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?	No

FLORIDA ACADEMY OF DERMATOLOGY
EST. 1930

Coverage for Skin Cancer Screenings
March 2023

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Christopher L. Nuland, Esq.

**Voting Board Member*

Pursuant to s. 624.215 F.S. please accept the following report that accesses the social and financial impacts of the proposed coverage.

(a) To what extent is the treatment or service generally used by a significant portion of the population.

Preventative skin cancer screenings are not a covered benefit for patients in Florida. If patients desired a free skin cancers screening, they would have to attend a free screening provided by volunteer dermatologist. These are offered only rarely, as dermatologists have limited time away from their busy clinics. The website Find a free skin cancer screening (aad.org) provided by the American Academy of Dermatology, currently lists zero free screenings available in the state of Florida.

(b) To what extent is the insurance coverage generally available.

Health Insurance plans in Florida currently do not offer coverage for preventative skin cancer screenings.

(c) If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment.

In Illinois, where preventative skin cancer screenings are covered by health insurance companies, a large dermatology practice reports a 99.15% (stage 0-2) early melanoma detection rate[1] compared to industry average early melanoma detection rate of 83.00%.[1] This results in a 97.9% five-year melanoma survival rate compared to industry average 87.0% five-year melanoma survival rate.[1] These data imply that by proactively checking for skin cancer, it can be found earlier and cured with a better prognosis for patients.

(d) If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship.

When detected early, skin cancer can be cured quickly and cost-effectively, however later detection results in much more expensive treatment costs. To cure a malignant melanoma, the deadliest form of skin cancer, when it is caught in the early stages of its development, costs less than $1000 in total charges for excisional removal. However, if malignant melanoma is discovered after it has already spread throughout the body, the cost can be as high as $500,000 per patient per year for medications, and treatments.[i] Clearly, Floridians whose cancer isn't detected early, because they lack access to preventative screenings, suffer significant financial hardship.

(e) The level of public demand for the treatment or service.

Skin cancer is the most common cancer in the United States.[ii],[iii] Current estimates are that one in five Americans will develop skin cancer in their lifetime.[iv] It is estimated that approximately 9,500 people in the U.S. are diagnosed with skin cancer every day.[v],[vi] Skin cancer can affect anyone, regardless of skin color. Skin cancer in patients with darker skin tones is often diagnosed in its later stages, when it's more difficult to treat. Late-stage melanoma diagnoses are more prevalent among Hispanic and Black people than non-Hispanic white people. The estimated five-year melanoma survival rate for Black patients is only 71% versus 93% for white patients. This means Black patients are 4 times more likely to die of melanoma due to late-stage diagnosis.[vii],[viii] Nearly 20 Americans die from melanoma every day. In 2022, it is estimated that 7,650 deaths will be attributed to melanoma — 5,080 men and 2,570 women.[ix],[x] Excess exposure to UV radiation from sunlight or use of indoor tanning also increases risk for all skin cancer types, as does a personal history of the disease.[xi] The majority of melanoma cases are attributable to UV exposure.[xii],[xiii],[xiv] Because of the relationship with UV exposure and skin cancer, it should come as no surprise that Florida, The Sunshine State, has the highest diagnosed skin cancer prevalence rate in the US (7.1%). And, of the top 5 cities in the US for skin cancer prevalence rate, four are cities in Florida: Sarasota-Bradenton (10.0%), Fort Pierce-Port St. Lucie (9.5%), West Palm Beach-Boca Raton (9.5%), and Melbourne-Titusville-Palm Bay (8.6%)[xv] In addition, Florida has the second highest absolute number of malignant melanoma cases in the country behind only California.[xvi]

Because of the elevated risk of Floridians, we would expect a significant demand for this service.

(f) The level of public demand for insurance coverage of the treatment or service.

There should be little doubt that patients would prefer to consume healthcare as a covered benefit as opposed to an out-of-pocket expense.

(g) The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.

We do not have information regarding the interest of collective bargaining agents.

(h) To what extent will the coverage increase or decrease the cost of the treatment or service.

We estimate that the introduction of preventative screenings for skin cancer as a covered service will not significantly impact the overall cost of dermatology treatments in Florida. Any new charges for preventative screenings will be offset by the absence of charges that would have otherwise been submitted by the dermatologist for time spent on treating a patient with a different condition (acne, rosacea, etc.). However, it should be noted that due to the cost benefits of early detection discussed earlier, we estimate that the passage of this bill would reduce the overall cost of care to the system.

(i) To what extent will the coverage increase the appropriate uses of the treatment or service.

There is currently no coverage for preventative screening for skin cancer, so the service is rarely performed. Passage of this bill would encourage patients to seek appropriate care.

(j) To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service.

As discussed above, this service will lead to earlier detection of skin cancer. This will come with a significant cost savings as treatment is much less expensive when cancer is detected early:

When detected early, skin cancer can be cured quickly and cost-effectively, however later detection results in much more expensive treatment costs. To cure a malignant melanoma, the deadliest form of skin cancer, when it is caught in the early stages of its development, costs less than $1000 in total charges for excisional removal. However, if malignant melanoma is discovered after it has already spread throughout the body, the cost can be as high as $500,000 per patient per year for medications, and treatments.[xvii]

(k) To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.

The code for preventative screenings already exists and is being processed by insurance carriers for other approved purposes such as mammography and prostate cancer screenings. There would be little administrative burden for insurance carriers to extend this coverage to preventative skin cancer screenings.

(l) The impact of this coverage on the total cost of health care.

As discussed above, this service will lead to earlier detection of skin cancer. This will come with a significant cost savings as treatment is much less expensive when cancer is detected early:

When detected early, skin cancer can be cured quickly and cost-effectively, however later detection results in much more expensive treatment costs. To cure a malignant melanoma, the deadliest form of skin cancer, when it is caught in the early stages of its development, costs less than $1000 in total charges for excisional removal. However, if malignant melanoma is discovered after it has already spread throughout the body, the cost can be as high as $500,000 per patient per year for medications, and treatments.[xviii]

[i] Almutairi, et al. Economic Evaluation Patients with Advanced Unresectable Melanoma versus Economic valuation of Talimogene Laherparepvec Plus Ipilimumab Combination Therapy vs Ipilimumab Monotherapy in Patients With Advanced Unresectable Melanoma. JAMA Dermatology. January 2019;155(1):22-28.

[ii] Guy GP, Thomas CC, Thompson T, Watson M, Massetti GM, Richardson LC. Vital signs: Melanoma incidence and mortality trends and projections—United States, 1982–2030. MMWR Morb Mortal Wkly Rep. 2015;64(21):591-596.
[iii] Guy GP, Machlin S, Ekwueme DU, Yabroff KR. Prevalence and costs of skin cancer treatment in the US, 2002–2006 and 2007–2011. Am J Prev Med. 2015;48:183–7.
[iv] Stern RS. Prevalence of a history of skin cancer in 2007: results of an incidence-based model. Arch Dermatol. 2010 Mar;146(3):279-82.
[v] Rogers HW, Weinstock MA, Feldman SR, Coldiron BM. Incidence estimate of nonmelanoma skin cancer (keratinocyte carcinomas) in the US population. JAMA Dermatol. Published online April 30, 2015.
[vi] Siegel RL, Miller KD, Fuchs HE, Jemal A. Cancer statistics, 2022. CA Cancer J Clin. 2022;72(1):7-33. doi:10.3322/caac.21708.
[vii] Siegel RL, Miller KD, Fuchs HE, Jemal A. Cancer statistics, 2022. CA Cancer J Clin. 2022;72(1):7-33. doi:10.3322/caac.21708.
[viii] Agbai ON, Buster K, Sanchez M, Hernandez C, Kundu RV, Chiu M, Roberts WE, Draelos ZD, Bhushan R, Taylor SC, Lim HW. Skin cancer and photoprotection in people of color: a review and recommendations for physicians and the public. J Am Acad Dermatol. 2014;70(4):748-62.
[ix] American Cancer Society. Cancer Facts & Figures 2022. Atlanta: American Cancer Society; 2022.
[x] Siegel RL, Miller KD, Fuchs HE, Jemal A. Cancer statistics, 2022. CA Cancer J Clin. 2022;72(1):7-33. doi:10.3322/caac.21708.
[xi] American Cancer Society. Cancer Facts & Figures 2022. Atlanta: American Cancer Society; 2022.
[xii] Arnold M, Kvaskoff M, Thuret A, Guenel P, Bray F and Soerjomatarm I. Cutaneous melanoma in France in 2015 attributable to solar ultraviolet radiation and the use of sunbeds. J Eur Acad Dermatol Venereol. Published online April 16, 2018. https://doi.org/10.1111/jdv.15022.
[xiii] Arnold M et al. Global burden of cutaneous melanoma attributable to ultraviolet radiation in 2012. Int J Cancer. 2018 April. https://doi.org/10.1002/ijc.31527.
[xiv] Islami F, Sauer AG, Miller KD, et al. Cutaneous melanomas attributable to ultraviolet radiation exposure by state. Int J Cancer. 2020;147(5):1385-1390. doi:10.1002/ijc.32921.
[xv] Blue Cross Blue Shield Labor Matters. July 2018.
[xvi] Florida has second-highest rate of deadly skin cancer | Miami Herald
[xvii] Almutairi, et al. Economic Evaluation Patients with Advanced Unresectable Melanoma versus Economic valuation of Talimogene Laherparepvec Plus Ipilimumab Combination Therapy vs Ipilimumab Monotherapy in Patients With Advanced Unresectable Melanoma. JAMA Dermatology. January 2019;155(1):22-28.
[xviii] Almutairi, et al. Economic Evaluation Patients with Advanced Unresectable Melanoma versus Economic valuation of Talimogene Laherparepvec Plus Ipilimumab Combination Therapy vs Ipilimumab Monotherapy in Patients With Advanced Unresectable Melanoma. JAMA Dermatology. January 2019;155(1):22-28.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/22/24
Meeting Date

~~Health Policy~~ Banking - Insurance
Committee

SB 56
Bill Number or Topic

Amendment Barcode (if applicable)

Name Marc Inglese, M.D. Phone

Address 4617 White Fox Email inglesemd@gmail.com
Street

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:

☐ 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

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1/22/2023
Meeting Date

Banking and Insurance
Committee

56 - Skin Cancer Screenings
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARP - Karen Murillo

Phone 850-567-0414

Address 215 S. Monroe St., Ste. 603
Street

Email kmurillo@aarp.org

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:
AARP

☐ 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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1/22/24
Meeting Date

Banking & Insurance
Committee

SB 56
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Lyon

Phone (850) 222-5702

Address 106 E. College Ave
Street

Email clyon@llw-law.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: Fla. Osteopathic Medical 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/22/24
Meeting Date

Banking & Insurance
Committee

SB 56
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jeff Scott

Phone 850 224-6496

Address 1430 Piedmont Dr. E.
Street

Email jscott@flmedical.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:
Florida Medical 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

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 56
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/22/2024 1 Amendment 408314 was adopted w/o objection Harrell					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
X		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
9	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 662
INTRODUCER:	Senate Committee on Banking and Insurance and Senator Burton
SUBJECT:	Virtual Currency Kiosk Businesses
DATE:	January 23, 2024 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Senate Bill 662 establishes a regulatory framework for virtual currency kiosk businesses, and provides protections for users of the kiosks by requiring such businesses to register with the Office of Financial Regulation (OFR), requiring certain disclosures, restricting the name under which such business may transact, and providing penalties for specified violations of the part. The Legislative intent of the bill is, in summary, to reduce unlawful and fraudulent activities. The bill provides the OFR is responsible for supervising virtual currency kiosk businesses, and authorizes the Financial Services Commission (the "Commission") to adopt rules to regulate them.

Registration requirement

The bill prohibits, effective March 1, 2025, a virtual currency kiosk business from operating in Florida without first registering, or renewing its registration, with the OFR. A money transmitter licensed as a money services business (MSB) is exempt from registering as a virtual currency kiosk business. An entity that acts as an intermediary in specified circumstances and or otherwise meets the definition of a money transmitter must be licensed as a money services business. For an applicant to register a virtual currency kiosk business, the applicant must submit specified information relating to the proposed applicant and business, attest to specified information relating to blockchain analytics, and within a specified time, any supplemental information required by the OFR. A virtual currency kiosk business operating in Florida on or before January 1, 2025 must submit a registration application to the OFR within 30 days after that date.

Disclosures, Attestations, and Confirmations

The bill requires that owner-operators:

- Display a disclosure warning consumers about potential dishonest schemes and requiring the customer to acknowledge that they have read the disclosure.
- Display a disclosure that funds lost due to user error or fraud may not be recoverable.
- With respect to virtual currency kiosk businesses, confirm w whether the customer is using the kiosk to send virtual currency to a wallet owned by someone else and, if so, terminate the transaction unless the owner-operator is a licensed money transmitter.
- Display a disclosure of a toll-free telephone number the kiosk user may call to learn about the risks of the transaction; and
- Require an attestation to specified information, without which the transaction must be terminated.

The bill authorizes the Commission to adopt rules to administer the section on disclosures, including to ensure the disclosures are responsive to consumer fraud and emerging technology.

Conduct of Business

An owner-operator may transact business only under the legal name by which it is registered, except a fictitious name may be used in specified circumstances. An owner-operator must maintain clearly documented policies, processes, and procedures regarding how blockchain analytics activity integrates into their compliance, and must apply such blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Penalties

The bill provides criminal penalties for violating the disclosure requirements, operating under any name other than that designated in the registration (unless written notification is given to the OFR), assigning or attempting to assign a registration, and operating a virtual currency kiosk without using the required blockchain analytics.

Except as otherwise provided, the bill is effective January 1, 2025.

II. Present Situation:

A virtual currency kiosk, also known as a cryptocurrency kiosk or a Bitcoin ATM, is a physical machine that enables customers to exchange virtual currencies for fiat currency or other virtual currencies.[1] As of 2022, there were over 30,000 virtual currency kiosks in the United States.[2]

[1] National Association of Attorneys General, *Your Bitcoin on Every Block: An Introduction to Cryptocurrency Kiosks*, May 4, 2022, available at: Your Bitcoin on Every Block: An Introduction to Cryptocurrency Kiosks (naag.org) (last visited Jan. 16, 2024) (hereinafter cited as "Attorneys General Article on Cryptocurrency Kiosks").

[2] McDonnell, S., *United States: US GAO Urges New Virtual Currency Regulations to Counter Human Trafficking and Drug Cartels*, Jan. 2022, available at: US GAO Urges New Virtual Currency Regulations To Counter Human Trafficking And Drug Cartels - Fin Tech - United States (mondaq.com) (last visited Jan. 17, 2024) (hereinafter cited as "Article on US GAO Urges New Virtual Currency Regulations") .

Consumers are typically charged fees between 9% and 12% of the value of the transaction but such fees may range from 4% to greater than 20% of the value of a transaction.[3]

A virtual currency kiosk may be unidirectional, only allowing the sale of virtual currency, or bidirectional, allowing for both the sale and purchase of virtual currency.[4] To purchase virtual currency from a kiosk, a consumer may store the purchased virtual currency in their own wallet or send the currency to a third party's wallet if the purchaser has a QR code to that person's wallet.[5] To sell virtual currency from a kiosk, a user deposits virtual currency into the machine's wallet, which is usually done by use of a QR code displayed on the kiosk's screen, and the kiosk dispenses cash when the transaction is completed.[6]

Federal Regulation

Financial Crimes Enforcement Network ("FinCEN"), a bureau of the United States Department of Treasury.[7] is responsible for safeguarding the financial system from illegal use, combatting money laundering and related crimes, and promoting national security.[8] Unless an exception applies, a money services business[9] (MSB) must register with FinCEN.[10] A MSB must registration period is a two-calendar-year period.[11] Any person who fails to comply with the registration requirements is liable for a civil penalty of $5,000 for each violation.[12] A MSB must develop, implement, and maintain an anti-money laundering program, which includes, amongst other things, verifying customer identification.[13] A MSB must also comply with anti-money laundering reporting requirements, such as reporting certain payment transactions by, though, or to the MSB which involves a transaction more than $10,000.[14]

[3] Attorneys General Article on Cryptocurrency Kiosks
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] 31 C.F.R. s. 1010.100(s).
[8] The U.S. Treasury Financial Crimes Enforcement Network, *Financial Crimes Enforcement Network: Mission*, available at: Mission | FinCEN.gov (last visited Jan. 15, 2024).
[9] "Money services business" is defined as a person wherever located doing business, whether or not on a regular basis or as an organized or licensed business concern, wholly or in substantial part within the United States, in one or more of the capacities specified under federal law. 31 C.F.R. s. 1010.100(ff).
[10] 31 C.F.R. s. 1022.380(a).
[11] 31 C.F.R. s. 1022.380(b).
[12] 31 C.F.R. s. 1022.380(e) (providing that each day a violation continues constitutes a separate violation).
[13] 31 C.F.R. s. 1022.210.
[14] 31 C.F.R. s. 1010.311.

FinCEN has issued guidance that, unless an exception applies, an administrator[15] or exchanger[16] that: (a) accepts or transmits, or (b) buys or sells, virtual currency[17] is a money transmitter that are subject to money services business registration, reporting, and recordkeeping requirements.[18] Therefore, FinCEN treats virtual currency kiosk operators as MSBs, subject to registration regulations.[19] Notwithstanding this requirement, the United States Government Accountability Office ("GAO") reports that only 164 of the estimated 297 kiosk operators in the United States were registered, which has contributed to federal agencies, such as FinCEN, facing challenges in identifying virtual currency kiosk locations.[20]

Florida Regulation of Consumer Finance

The Florida 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.[21]

Money Services Businesses

As part the OFR's responsibilities, the OFR oversees MSBs. As of December 31, 2023, there were a total of 723 MSBs licensed by the OFR.[22] A MSB includes any person located or doing business in Florida who acts as, amongst other things, a money transmitter.[23] "Money transmitter" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in Florida which receives currency, monetary value, a payment instrument, or virtual currency[24] for the purpose of acting as an intermediary to transmit

[15] "Administrator" is defined as a person engaged as a business in issuing (putting into circulation) a virtual currency, and who has the authority to redeem (to withdraw from circulation) such virtual currency. The U. S. Treasury FinCEN, *Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies*, Mar. 18, 2013, available at: Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies | FinCEN.gov (last visited Jan. 16, 2024) (hereinafter cited as "FinCEN Guidance on Persons Administering, Exchanging, or Using Virtual Currency").

[16] "Exchanger" is defined as a person engaged as a business in the exchange of virtual currency for real currency, funds, or other virtual currency. *Id.*

[17] "Virtual Currency" is defined as a medium of exchange that operates like a currency in some environments, but does not have all of attributes of real currency. "Convertible" virtual currency has an equivalent value in real currency, or acts as a substitute for real currency. *Id.*

[18] FinCEN Guidance on Persons Administering, Exchanging, or Using Virtual Currency. "Money transmitter" is defined as a person who provides money transmitter services, which means the acceptance of currency, funds, or other value that substitutes for currency from one person and the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means. "Any means" includes, but is not limited to, a financial agency or institution, a Federal Reserve Bank, an electronic funds transfer network, or an informal value transfer system. 31 C.F.R. s. 1010.100(ff)(5)(A).

[19] *Id.*; *See also* Article on US GAO Urges New Virtual Currency Regulations.

[20] The GAO, *Virtual Currencies Additional Information Could Improve Federal Agency Efforts to Counter Human and Drug Trafficking*, Dec. 2021, available at: GAO-22-105462, Accessible Version, VIRTUAL CURRENCIES: Additional Information Could Improve Federal Agency Efforts to Counter Human and Drug Trafficking (last visited Jan. 17, 2024).

[21] Section 20.121(3)(a)2., F.S.

[22] The OFR, *2024 Agency Legislative Bill Analysis Florida Office of Financial Regulation SB 662*, p. 2, Jan. 8, 2024 (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as "2024 OFR Agency Analysis for SB 662").

[23] Section 560.103(23), F.S.

[24] Section 560.103(36), F.S., defines "virtual currency" as a medium of exchange in electronic or digital formal that is not currency. The term does not include a medium of exchange in electronic or digital format that is: (a) issued by or on behalf of a publisher or offered on the same game platform; or (b) used exclusively as part of a consumer affinity or rewards program

currency, monetary value, a payment instrument, or virtual currency from one person to another location or person by means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction.[25] Money transmitters reported $423,270,012,517 in transmissions during the fiscal year 2022-2023.[26]

Licenses issued to MSBs are valid until April 30 of the second year following the date of issuance and are valid for 2 years.[27] A MSB that does not renew its license by April 30 of their expiration year are deemed inactive and, if the license is not reactivated within 60 days, the license will permanently expire.[28] An MSB need only pay the renewal or reactivation fee online via the Regulatory Enforcement and Licensing (REAL) System to renew or reactivate a license.[29]

Once licensed, an MSB is required to report any change in control persons.[30,31] If any person, directly or indirectly or acting by or through one or more persons, proposes to purchase or acquire a controlling interest in an MSB, such person or group must submit a new application for licensure at least 30 days before such purchase or acquisition.[32] Such a change of control application is not required where the person or group of persons has previously complied with applicable licensing provisions, provided that they are currently affiliated with the MSB, or where the person or group of persons is currently licensed with the OFR as an MSB.[33] A change

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and can be applied solely as payment for purchases with the issuer or other designated merchants but cannot be converted into or redeemed for currency or another medium of exchange.

[25] Section 560.103(24), F.S.

[26] 2024 OFR Agency Analysis for SB 662 at p. 3.

[27] Section 560.141(2), F.S.

[28] Section 560.142(4), F.S.

[29] 2024 OFR Agency Analysis for SB 662 at p. 3.

[30] Section 560.103(10), F.S., defines "Control person," with respect to a money services business, as any of the following: (a) A person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or compliance officer for a money services business; (b) A person who holds any of the officer, general partner, manager, or managing member positions named in the money services business's governing documents. As used in this paragraph, the term "governing documents" includes bylaws, articles of incorporation or organization, partnership agreements, shareholder agreements, and management or operating agreements; (c) A director of the money services business's board of directors; (d) A shareholder in whose name shares are registered in the records of a corporation for profit, whether incorporated under the laws of this state or organized under the laws of any other jurisdiction and existing in that legal form, who owns 25 percent or more of a class of the company's equity securities; (e) A general partner or a limited partner, as those terms are defined in s. 620.1102, F.S., who has a 25 percent or more transferable interest, as defined in s. 620.1102, F.S., of a limited partnership, limited liability limited partnership, foreign limited partnership, or foreign limited liability limited partnership, as those terms are defined in s. 620.1102, F.S. (f) A member, who is a person that owns a membership interest in a limited liability company or a foreign limited liability company, as those terms are defined in s. 605.0102(36) and (26), F.S., respectively, that holds a 25 percent or more membership interest in such company. As used in this subsection, the term "membership interest" means a member's right to receive distributions or other rights, such as voting rights or management rights, under the articles of organization; (g) A natural person who indirectly owns 25 percent or more of the shares or stock interest, transferable interest as defined in s. 620.1102, F.S., or membership interest as defined in paragraph (f), of any legal entities referred to in paragraphs (d)-(f).

[31] Section 560.126(3), F.S.

[32] Section 560.126(3)(a), F.S.; r. 69v-560.201(4), F.A.C.

[33] Section 560.126(3)(c), F.S.; r. 69v-560.201(6), F.A.C.

of control application must be accompanied by the payment of an initial licensing fee[34] and a fee per branch or authorized vendor,[35] up to a maximum of $20,000.[36]

The OFR has enforcement authority against MSBs for violating any state law relating to the detection and prevention of money laundering.[37]

Virtual Currency Kiosk Businesses

OFR reports that there are currently 26 operators and a total of 2,785 kiosks in Florida.[38] Under current Florida law, an operator of a virtual currency kiosk that falls within the definition of a money transmitter is required to be licensed as a MSB. Florida does not have a separate regulatory regime for virtual currency businesses or virtual currency kiosk businesses.[39]

The OFR reports that the Federal Bureau of Investigation (FBI) and the Federal Trade Commission (FTC) have received complaints from Florida of alleged victim losses totaling between $16 and $21 million from January 2020 to present.[40] Since April 2023, the OFR has opened approximately 40 investigations relating to virtual currency kiosk losses.[41]

III. Effect of Proposed Changes:

Section 1 of the bill creates definitions the following definitions:

- "Blockchain analytics" refers to the process of examining, monitoring, and gathering insights from the data and transaction patterns on a blockchain network. The primary aim of blockchain analytics is to understand and monitor the network's health, track money flows, and identify potential security threats, including illicit activity, to extract actionable insights.
- "Owner-operator" means a registrant or a licensed money services business.
- "Virtual currency kiosk" means an electronic terminal that acts as a mechanical agent of the owner-operator, enabling the owner-operator to facilitate the exchange of virtual currency for fiat currency or other virtual currency for a customer.
- "Virtual currency kiosk business" or "registrant" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state

[34] Fees are determined by whether the MSB is licensed under Part II or Part III of Chapter 560. Initial licensing fees under Part II licenses require a $375 license application fee per s. 560.143(1)(a), F.S. Part III licenses require a $188 license application fee per s. 560.143(b), F.S.
[35] Section 560.143(1)(c) and (d), F.S., provides that both the per branch fee and the authorized vendor fee are $38.
[36] Section 560.143(1)(g), F.S.
[37] Section 560.123, F.S.
[38] The OFR, *OFR – The Sunrise Act Responses to 11.62(4)(5), F.S. for SB 662/HB 977* (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as "The OFR Sunrise Act Responses").
[39] California and Connecticut are the only two states that have adopted legislation to expressly regulate virtual currency kiosks. *See* Cal. Fin. Code s. 3901; Conn. Gen. Stat.36a-595 to 36a-612; Conn. P.A. 23-82 (Reg. Sess.), An Act Concerning Digital Assets.
[40] Email from Jason Holloway, Director of Fintech Policy, OFR, to Jacqueline Moody, Florida Senate Committee on Banking and Insurance, Senior Attorney, *Fwd: Kiosk Data*, (Jan. 17, 2024) (on file with Senate Committee on Banking and Insurance) (noting that, from January 2020 to the present, the FBI and the FTC reports for losses from Bitcoin and Crypto ATMs total approximately $16 and $5.8 million, respectively; if an alleged victim reported losses to both the FBI and the FTC then the data could be duplicative so the range of loss reported from both agencies is between $16 and $21 million).
[41] *Id.*

which operates a virtual currency kiosk and which is not a money transmitter as defined in this section.

- "Virtual currency kiosk transaction" means the process in which a customer uses a virtual currency kiosk to exchange virtual currency for fiat currency or other virtual currency. A transaction begins at the point at which the customer is able to initiate a transaction, after the customer is given the option to select the type of transaction or account, and does not include any of the screens that display the required terms and conditions, disclaimers, or attestations.
- "Wallet" means hardware or software that enables customers to store and use virtual currency.

The bill also modifies the definition of "control person" to apply to virtual currency kiosk businesses.

Section 2 of the bill amends the OFR's supervisory powers to authorize the agency to supervise virtual currency kiosk businesses, have access to their books and records, and enforce ch. 560, F.S. The bill also authorizes the commission to adopt rules to regulate virtual currency kiosk businesses.

Section 3 of the bill creates Part V of ch. 560, F.S., entitled "Virtual Currency Kiosk Businesses" consisting of ss. 560.501 – 560.506, F.S.

Section 4 of the bill provides a legislative intent for creating the virtual currency kiosk businesses regulation, specifically:

> The Legislature intends to reduce unlawful and fraudulent activities by requiring virtual currency kiosk businesses to register with the state and by requiring such businesses and money transmitter licensees to regularly and consistently disclose to all customers of virtual currency kiosks certain specified risks relating to virtual currency kiosk transactions.

Section 5 of the bill is effective March 1, 2025. The bill prohibits a virtual currency kiosk business from operating in Florida without first registering, or renewing its registration. The OFR is required to provide written notification, in person or by email, to each applicant that the agency has granted or denied the application for registration. The bill exempts a money transmitter licensed as a MSB from registering as a virtual currency kiosk business but makes such money transmitter subject to the disclosure (section 7), conduct (section 8), and enhanced due diligence (section 9) requirements of the bill. If an entity, in the course of its business, acts as an intermediary with the ability to unilaterally execute or indefinitely prevent a virtual currency kiosk transaction, or otherwise meets the definition of a money transmitter, the entity must be licensed as a MSB.

Unless licensed as a money services business, a money transmitter that operates or solicits business as a virtual currency kiosk business without first being issued a certificate of registration by the OFR or without maintaining a certificate of registration commits a felony of the third degree.[42] A person who registers or attempts to register as a virtual currency kiosk

[42] 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.

business by means of fraud, misrepresentation, or concealment commits a felony of the third degree.

A virtual currency kiosk business registration issued under this part is not transferable or assignable.

Section 6 of the bill provides for virtual currency kiosk businesses' registration application requirements. An applicant must submit to the OFR all of the following:

- A completed registration application on forms prescribed by rule of the commission which must include:
- The legal name, including any fictitious or trade names used by the applicant in the conduct of its business, and the physical and mailing address of the applicant.
- The date of the applicant's formation and the state in which the applicant was formed, if applicable.
- The name, social security number, alien identification or taxpayer identification number, business and residence address, and employment history for the past 5 years for each person who meets the definition of a control person.
- A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded.
- The name of the registered agent in this state for service of process.
- The physical address of the location of each virtual currency kiosk through which the applicant proposes to conduct or is conducting business in this state.
- An attestation that the application has developed documented policies, processes, and procedures regarding the use to blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity and that the applicant will maintain and comply with such policies, processes, and procedures.
- Any other information as required ch. 560, F.S., or commission rule.
- Any information needed to resolve any deficiencies found in the application, which must be submitted within a time period prescribed by rule. A virtual currency kiosk business operating in Florida on or before January 1, 2025, must submit a registration application to the OFR within 30 days.

A registrant shall report, on a form prescribed by rule of the commission, any change in the information contained in an initial application form, or an amendment thereto, within 30 days after the change is effective. A registrant must renew its registration annually on or before December 31 each year, and submit a renewal application that provides:

- The information required by a virtual currency kiosk business for an initial registration application, if there are changes in the application information, or an affidavit signed by the registrant that the information remains the same as the prior year.
- Upon request by OFR, evidence that the registrant has been operating in compliance with the disclosure (section 7) and conduct (section 8) requirements of the bill. Such evidence may be prescribed by rule by the commission and may include, but is not limited to:
    - Current disclosures presented to customers during the transaction process.
    - Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

A renewal application becomes effective upon the date the OFR approves the application for registration, which must be determined within a time period prescribed by rule. A virtual currency kiosk business's renewal application that fails to provide any requested evidence of compliance must be denied by the OFR.

The registration of a virtual currency kiosk business that does not renew its registration by December 31 each year must be made inactive for 60 days. A virtual currency kiosk business may not conduct business while its registration is inactive. Within 60 days after the registration becoming inactive, a virtual currency kiosk business must renew its registration by submitting all of the information required in the paragraph above, and the registration will become effective upon the date of any certificate of registration that is issued by the OFR. Failure to submit an application to renew the virtual currency kiosk business's registration within 60 days after the registration becoming inactive will result in the registration becoming null and void. If the registration is null and void, a new application to register the virtual currency kiosk business must be submitted to the OFR and a certification of registration must be issued by the OFR before the virtual currency kiosk business may resume conducting business in Florida.

If a control person of a prospective registrant has engaged in any unlawful business practices, or been convicted or found guilty, pled guilty or nolo contendere to, regardless of adjudication, of a crime involving dishonest dealing, fraud, acts of moral turpitude, or other acts that reflect an inability to engage lawfully in the business of a registered virtual currency kiosk business, the OFR may not accept the prospective registrant's initial or renewal registration application. Any false statement made by a virtual currency kiosk business with respect to the name of the business or its business address or location in any application for registration renders the registration void. A void registration may not be construed as creating a defense to any prosecution for violation of this chapter.

The commission may adopt rules to administer the provisions of section 6 of the bill.

Section 7 of the bill sets out disclosure requirements with which virtual currency kiosk businesses must comply, including all of the following:

- Be full and complete.
- Contain no material misrepresentations.
- Be readily understandable and in the language in which the virtual currency kiosk transaction is conducted.
- Be displayed in at least 14-point type.

Before authorizing a customer to initiate a virtual currency kiosk transaction, the owner-operator must ensure that the virtual currency kiosk displays the disclosures in this section on two separate screens:

The first disclosure must be in substantially the following form:

WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A STRANGER WHO IS INITIATING A DISHONEST SCHEME. I UNDERSTAND THAT DISHONEST SCHEMES MAY APPEAR IN MANY FORMS, INCLUDING, BUT NOT LIMITED TO:

- Claims of a frozen bank account or credit card.
- Fraudulent bank transactions.
- Claims of identity theft or job offerings in exchange for payments.
- Requests for payments to government agencies or companies.
- Requests for disaster relief donations or loans.
- Offers to purchase tickets for lotteries, sweepstakes, or drawings for vehicles.
- Prompts to click on desktop pop-ups, such as virus warnings or communication from alleged familiar merchants.
- Communication from someone impersonating a representative of your bank or a law enforcement officer.
- Requests from persons who are impersonating relatives or friends in need or promoting investment or romance scams.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

The second disclosure must be in substantially the following form:

WARNING: FUNDS LOST DUE TO USER ERROR OR FRAUD MAY NOT BE RECOVERABLE. TRANSACTIONS CONDUCTED ON THIS VIRTUAL CURRENCY KIOSK ARE IRREVERSIBLE. I UNDERSTAND THESE RISKS AND WISH TO CONTINUE WITH CONDUCTING MY VIRTUAL CURRENCY KIOSK TRANSACTION.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

In addition to these two disclosure requirements, the virtual currency kiosk business (not a money transmitter licensed as a MSB) must ensure that the virtual currency kiosk displays on a pop-up window the following question to the customer:

"ARE YOU USING THIS KIOSK TO SEND VIRTUAL CURRENCY TO A WALLET OWNED BY SOMEONE ELSE?"

The virtual currency kiosk business must require the customer to respond to this question in the negative before the customer can proceed with the virtual currency kiosk transaction. The virtual currency kiosk business must ensure that the virtual currency kiosk terminates a customer's virtual currency kiosk transaction if the customer has provided a "yes" response to this question.

After these required disclosures or affirmation, owner-operator must ensure that the virtual currency kiosk provides the customer with a toll-free number to contact regarding the risks of engaging in virtual currency transactions and displays, on a screen by itself, the following attestation in substantially the following form:

I ATTEST THAT I HAVE BEEN GIVEN A TOLL-FREE NUMBER AND THAT I HAVE HAD AN OPPORTUNITY TO CALL THE NUMBER TO SPEAK WITH SOMEONE

REGARDING THE RISKS OF ENGAGING IN VIRTUAL CURRENCY KIOSK TRANSACTIONS. I FURTHER ATTEST THAT I UNDERSTAND THAT I MAY BE SOLELY RESPONSIBLE FOR LOSS OF FUNDS DUE TO USER ERROR OR FRAUD.

If a customer makes this attestation, the owner-operator may allow the customer to proceed with the virtual currency kiosk transaction. If the customer does not make the attestation, the owner-operator must ensure that the virtual currency kiosk terminates the customer's virtual currency kiosk transaction.

The bill authorizes the commission to adopt rules to administer this section and to ensure that virtual currency kiosk disclosures are responsive to consumer fraud and emerging technology.

Section 8 of the bill requires an owner-operator to transact business only under the legal name under which it is registered. The use of a fictitious name is allowed if the fictitious name has been registered with the Department of State and disclosed to the OFR as part the owner-operator's registration or application (including any supplemental information) before its use.

An owner operator must maintain clearly documented policies, processes, and procedures with regard to the manner in which the blockchain analytics activity integrates into their compliance controls, and must use blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Section 9 of the bill provides for penalties, including:
A owner-operator that violates the disclosure requirements under section 7 of the bill commits a felony of the third degree.

- Each of the following violations constitutes a second degree misdemeanor:[43]
  - Operating under any name other than that designated in the registration, unless written notification is given to the OFR.
  - Assigning or attempting to assign a virtual currency kiosk business registration issued.
  - Operating a virtual currency kiosk without the using the required blockchain analytics.

In addition to the criminal penalties, a court may invalidate the registration of any registrant under this part who has been found guilty of such prohibited conduct.

Section 10 provides that except as otherwise provided, the bill is effective January 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[43] A second degree misdemeanor is punishable by up to 60 days imprisonment and up to a $500 fine. Sections 775.082 and 775.083, F.S.

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 OFR reports there would be de minimis costs to businesses and consumers to implement the provisions of the bill. The bill requires virtual currency kiosk businesses to use blockchain analytics software to prohibit transactions to addresses that are linked to criminal activity, but there are free versions of the required software that can be utilized.[44]

C. Government Sector Impact:

The OFR reports that the fiscal cost for rulemaking, and the fiscal impact to update the OFR's technology (e.g. the OFR's REAL system and website), would be minimal and absorbed within the OFR's current resources.[45]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 560.103 and 560.105 of the Florida Statutes.
This bill creates sections 560.501, 560.502, 560.503, 560.504, 560.505, and 560.506 of the Florida Statutes.

[44] The OFR Sunrise Act Responses.
[45] 2024 OFR Agency Analysis for SB 662 at p. 8.

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 22, 2024:

- Provides the Office of Financial Regulation (OFR) supervisory powers and rulemaking authority over virtual currency kiosk businesses;
- Provides an effective date of March 1, 2025 for registration requirements, and amends the method with which the OFR must notify an applicant whether its registration has been approved or denied;
- Deletes the provision that requires virtual currency kiosk businesses who are currently operating in Florida to register within 30 days of the bill's effective date;
- Amends the registration application requirements to:
  - Require an attestation with respect to blockchain analytics;
  - Remove the application fee;
  - Modify the timeframe to provide supplemental information from 30 days to within a time prescribed by rule;
  - Require virtual currency kiosk businesses operating in Florida on or before January 1, 2025 to submit a registration application within 30 days; and
  - Requires the OFR to determine whether an application for a renewal registration will be approved or denied within a time period prescribed by rule.
- Expands the grounds for which the OFR must deny an application to include when a control person has pled guilty or nolo contendere to specified crimes;
- Clarifies that the disclosure and attestation requirements, conduct of business, and penalties apply to owner-operators, which includes money services businesses rather than only virtual currency kiosk businesses, except for limited provisions with respect to an attestation requirement;
- Removes the requirement to attest whether the customer is younger than 60 years of age;
- Requires an owner-operator to develop and use policies, processes, and procedures to prevent transfers to wallet addresses that are linked to criminal activity, and makes the failure to do so a second degree misdemeanor; and
- Amends and creates a new definition; makes technical changes.

B. Amendments:

None.

742132

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
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The Committee on Banking and Insurance (Burton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (4) through (28) and (29) through (36) of section 560.103, Florida Statutes, are redesignated as subsections (5) through (29) and (31) through (38), respectively, new subsections (4) and (30) and subsections (39) through (42) are added to that section, and present subsection (10) of that section is amended, to read:

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

(4) "Blockchain analytics" refers to the process of examining, monitoring, and gathering insights from the data and transaction patterns on a blockchain network. The primary aim of blockchain analytics is to understand and monitor the network's health, track transaction flows, and identify potential security threats, including illicit activity, to extract actionable insights.

(11) ~~(10)~~ "Control person" means, with respect to a money services business or virtual currency kiosk business, any of the following:

(a) A person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or compliance officer for a money services business or virtual currency kiosk business.

(b) A person who holds any of the officer, general partner, manager, or managing member positions named in the money services business's or virtual currency kiosk business's governing documents. As used in this paragraph, the term "governing documents" includes bylaws, articles of incorporation or organization, partnership agreements, shareholder agreements, and management or operating agreements.

(c) A director of the money services business's or virtual currency kiosk business's board of directors.

(d) A shareholder in whose name shares are registered in the records of a corporation for profit, whether incorporated under the laws of this state or organized under the laws of any other jurisdiction and existing in that legal form, who owns 25

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percent or more of a class of the company's equity securities.

(e) A general partner or a limited partner, as those terms are defined in s. 620.1102, who has a 25 percent or more transferable interest, as defined in s. 620.1102, of a limited partnership, limited liability limited partnership, foreign limited partnership, or foreign limited liability limited partnership, as those terms are defined in s. 620.1102.

(f) A member, who is a person that owns a membership interest in a limited liability company or a foreign limited liability company, as those terms are defined in s. 605.0102(36) and (26), respectively, that holds a 25 percent or more membership interest in such company. As used in this subsection, the term "membership interest" means a member's right to receive distributions or other rights, such as voting rights or management rights, under the articles of organization.

(g) A natural person who indirectly owns 25 percent or more of the shares or stock interest, transferable interest as defined in s. 620.1102, or membership interest as defined in paragraph (f), of any legal entities referred to in paragraphs (d)-(f).

(30) "Owner-operator" means a registrant or a licensed money services business.

(39) "Virtual currency kiosk" means an electronic terminal that acts as a mechanical agent of the owner-operator, enabling the owner-operator to facilitate the exchange of virtual currency for fiat currency or other virtual currency for a customer.

(40) "Virtual currency kiosk business" or "registrant" means a corporation, limited liability company, limited

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liability partnership, or foreign entity qualified to do business in this state which operates a virtual currency kiosk and which is not a money transmitter as defined in this section.

(41) "Virtual currency kiosk transaction" means the process in which a customer uses a virtual currency kiosk to exchange virtual currency for fiat currency or other virtual currency. A transaction begins at the point at which the customer is able to initiate a transaction after the customer is given the option to select the type of transaction or account, and does not include any of the screens that display the required terms and conditions, disclaimers, or attestations.

(42) "Wallet" means hardware or software that enables customers to store and use virtual currency.

Section 2. Paragraph (a) of subsection (1) and paragraph (b) of subsection (2) of section 560.105, Florida Statutes, are amended to read:

560.105 Supervisory powers; rulemaking.—

(1) The office shall:

(a) Supervise all money services businesses and their authorized vendors and virtual currency kiosk businesses.

(2) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this chapter.

(b) Rules adopted to regulate money services businesses, including deferred presentment providers and virtual currency kiosk businesses, must be responsive to changes in economic conditions, technology, and industry practices.

Section 3. Part V of chapter 560, Florida Statutes, consisting of ss. 560.501-560.506, Florida Statutes, is created and entitled "Virtual Currency Kiosk Businesses."

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Section 4. Section 560.501, Florida Statutes, is created to read:

560.501 Legislative intent.—The Legislature intends to reduce unlawful and fraudulent activities by requiring virtual currency kiosk businesses to register with the state and by requiring such businesses and money transmitter licensees to regularly and consistently disclose to all customers of virtual currency kiosks certain specified risks relating to virtual currency kiosk transactions.

Section 5. Effective March 1, 2025, section 560.502, Florida Statutes, is created to read:

560.502 Registration required; exemptions; penalties.—

(1) A virtual currency kiosk business in this state may not operate without first registering, or renewing its registration, in accordance with s. 560.503. The office must electronically notify the virtual currency kiosk business when its registration or renewal has been approved or denied. A virtual currency kiosk business currently operating in this state must register with the office within 30 days after the date on which this act becomes a law.

(2) A money transmitter licensed as a money services business pursuant to s. 560.141 is exempt from registration as a virtual currency kiosk business but is subject to ss. 560.504, 560.505, and 560.506.

(3) An entity, in the course of its business, may not act as an intermediary with the ability to unilaterally execute or indefinitely prevent a virtual currency kiosk transaction, or otherwise meet the definition of a money transmitter as defined in s. 560.103, without being licensed as a money services

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business pursuant to part II of this chapter.

(4) Unless licensed as a money services business pursuant to part II of this chapter, an entity that operates or solicits business as a virtual currency kiosk business without first being registered with the office or without maintaining its registration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A person who registers or attempts to register as a virtual currency kiosk business by means of fraud, misrepresentation, or concealment commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) A virtual currency kiosk business registration issued under this part is not transferable or assignable.

Section 6. Section 560.503, Florida Statutes, is created to read:

560.503 Registration applications.—

(1) To apply to be registered as a virtual currency kiosk business under this part, the applicant must submit all of the following to the office:

(a) A completed registration application on forms prescribed by rule of the commission, which must include the following information:

1. The legal name, including any fictitious or trade names used by the applicant in the conduct of its business, and the physical and mailing address of the applicant.

2. The date of the applicant’s formation and the state in which the applicant was formed, if applicable.

3. The name, social security number, alien identification

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or taxpayer identification number, business and residence addresses, and employment history for the past 5 years for each person who meets the definition of a control person.

4. A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded.

5. The name of the registered agent in this state for service of process.

6. The physical address of the location of each virtual currency kiosk through which the applicant proposes to conduct or is conducting business in this state.

7. An attestation that the applicant has developed clearly documented policies, processes, and procedures regarding the use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity, including the manner in which such blockchain analytics activity will integrate into its compliance controls, and that the applicant will maintain and comply with such blockchain analytics policies, processes, and procedures.

8. Any other information as required by this chapter or commission rule.

(b) Any information needed to resolve any deficiencies found in the application within a time period prescribed by rule.

(2) A virtual currency kiosk business operating in this state on or before January 1, 2025, must submit a registration application to the office within 30 days after that date.

(3) A registrant shall report, on a form prescribed by rule

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of the commission, any change in the information contained in an initial application form or an amendment thereto within 30 days after the change is effective.

(4) A registrant must renew its registration annually on or before December 31 of the year preceding the expiration date of the registration. To renew such registration, the registrant must submit a renewal application that provides:

(a) The information required in paragraph (1)(a) if there are changes in the application information, or an affidavit signed by the registrant that the information remains the same as the prior year.

(b) Upon request by the office, evidence that the registrant has been operating in compliance with ss. 560.504 and 560.505. Such evidence may be prescribed by rule by the commission and may include, but is not limited to, all of the following:

1. Current disclosures presented to customers during the transaction process.

2. Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

(5) The registration of a virtual currency kiosk business that does not renew its registration by December 31 of the year of expiration must be made inactive for 60 days. A virtual currency kiosk business may not conduct business while its registration is inactive.

(6) Within 60 days after the registration becomes inactive pursuant to subsection (5), a virtual currency kiosk business must renew its registration by submitting all of the following:

(a) The information required in paragraph (1)(a) if there

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are changes in the application information, or an affidavit signed by the registrant that the information remains the same as the prior year.

(b) Evidence that the registrant was operating in compliance with ss. 560.504 and 560.505. Such evidence may be prescribed by rule by the commission and may include, but is not limited to, all of the following:

1. Current disclosures presented to customers during the transaction process.

2. Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Any renewal registration made pursuant to this subsection becomes effective upon the date the office approves the application for registration. The office shall approve the renewal registration within a time period prescribed by rule.

(7) Failure to submit an application to renew the virtual currency kiosk business's registration within 60 days after the registration becomes inactive pursuant to subsection (5) shall result in the registration becoming null and void. If the registration is null and void, a new application to register the virtual currency kiosk business pursuant to subsection (1) must be submitted to the office and a certification of registration must be issued by the office before the virtual currency kiosk business may conduct business in this state.

(8) If a control person of a registrant or prospective registrant has engaged in any unlawful business practice, or been convicted or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime involving

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dishonest dealing, fraud, acts of moral turpitude, or other acts that reflect an inability to engage lawfully in the business of a registered virtual currency kiosk business, the office must deny the prospective registrant's initial registration application or the registrant's renewal application.

(9) A virtual currency kiosk business that submits a renewal application and fails to provide evidence of compliance upon request pursuant to paragraph (4)(b) or as required in paragraph (6)(b) shall have its application denied by the office.

(10) Any false statement made by a virtual currency kiosk business with respect to the name of the business or its business address or location in any application for registration under this section renders the registration void. A void registration may not be construed as creating a defense to any prosecution for violation of this chapter.

(11) The commission may adopt rules to administer this section.

Section 7. Section 560.504, Florida Statutes, is created to read:

560.504 Disclosures.—

(1) Disclosures or attestations required by this section and displayed by a virtual currency kiosk must meet all of the following requirements:

(a) Be full and complete.

(b) Contain no material misrepresentations.

(c) Be readily understandable and in the language in which the virtual currency kiosk transaction is conducted.

(d) Be displayed in at least 14-point type.

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(2) Before authorizing a customer to initiate a virtual currency kiosk transaction, the owner-operator shall ensure that the virtual currency kiosk displays the disclosures in this section on two separate screens:

(a) The first disclosure must be in substantially the following form:

WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A STRANGER WHO IS INITIATING A DISHONEST SCHEME.

I UNDERSTAND THAT DISHONEST SCHEMES MAY APPEAR IN MANY FORMS, INCLUDING, BUT NOT LIMITED TO:

1. Claims of a frozen bank account or credit card.

2. Fraudulent bank transactions.

3. Claims of identity theft or job offerings in exchange for payments.

4. Requests for payments to government agencies or companies.

5. Requests for disaster relief donations or loans.

6. Offers to purchase tickets for lotteries, sweepstakes, or drawings for vehicles.

7. Prompts to click on desktop pop-ups, such as virus warnings or communication from alleged familiar merchants.

8. Communication from someone impersonating a representative of your bank or a law enforcement officer.

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9. Requests from persons who are impersonating relatives or friends in need or promoting investment or romance scams.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

(b) The second disclosure must be in substantially the following form:

WARNING: FUNDS LOST DUE TO USER ERROR OR FRAUD MAY NOT BE RECOVERABLE. TRANSACTIONS CONDUCTED ON THIS VIRTUAL CURRENCY KIOSK ARE IRREVERSIBLE. I UNDERSTAND THESE RISKS AND WISH TO CONTINUE WITH CONDUCTING MY VIRTUAL CURRENCY KIOSK TRANSACTION.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

(3)(a) After the disclosures provided in subsection (2) are acknowledged by the customer, the virtual currency kiosk business shall ensure that the virtual currency kiosk displays on a pop-up window the following question to the customer: "ARE YOU USING THIS KIOSK TO SEND VIRTUAL CURRENCY TO A WALLET OWNED BY SOMEONE ELSE?"

(b) The virtual currency kiosk business shall require the customer to respond to the question in paragraph (a) with a "no" response before the customer can proceed to the attestation required in subsection (4).

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(c) The virtual currency kiosk business shall ensure that the virtual currency kiosk terminates a customer's virtual currency kiosk transaction if the customer provides a "yes" response to the question in paragraph (a).

(4) After the disclosure provided in subsection (2) and, with respect to virtual currency kiosk businesses, an answer of "no" to the question provided in paragraph (3)(a), the owner-operator must ensure that the virtual currency kiosk displays, on a screen by itself, a toll-free number for the customer to contact regarding the risk of engaging in virtual currency transactions and the following attestation in substantially the following form:

I ATTEST THAT I HAVE BEEN GIVEN A TOLL-FREE NUMBER AND THAT I HAVE HAD AN OPPORTUNITY TO CALL THE NUMBER TO SPEAK WITH SOMEONE REGARDING THE RISKS OF ENGAGING IN VIRTUAL CURRENCY KIOSK TRANSACTIONS. I FURTHER ATTEST THAT I UNDERSTAND THAT I MAY BE SOLELY RESPONSIBLE FOR LOSS OF FUNDS DUE TO USER ERROR OR FRAUD.

(a) If a customer makes the attestation in this subsection, the virtual currency kiosk may allow the customer to proceed with the virtual currency kiosk transaction.

(b) If the customer does not make the attestation in this subsection, the owner-operator must ensure that the virtual currency kiosk terminates the customer's virtual currency kiosk transaction.

(5) The commission may adopt rules to administer this section and to ensure that virtual currency kiosk disclosures

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are responsive to consumer fraud and emerging technology.

Section 8. Section 560.505, Florida Statutes, is created to read:

560.505 Conduct of business.—

(1) An owner-operator may transact business under this part only under the legal name by which such business is registered. The use of a fictitious name is allowed if the fictitious name has been registered with the Department of State and disclosed to the office as part of an initial registration or license application, or subsequent amendment to the application, before its use.

(2) An owner-operator must maintain clearly documented policies, processes, and procedures with regard to the manner in which the blockchain analytics activity integrates into their compliance controls. An owner-operator must use blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Section 9. Section 560.506, Florida Statutes, is created to read:

560.506 Penalties.—

(1) An owner-operator of a virtual currency kiosk which violates s. 560.504 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Each of the following violations constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Operating a virtual currency kiosk under any name other than that designated in the registration, unless written notification is given to the office.

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(b) Assigning or attempting to assign a virtual currency kiosk business registration issued under this part.

(c) Operating a virtual currency kiosk without the use of blockchain analytics as required under s. 560.505.

(3) In addition to the criminal penalties provided for under this section, a court may invalidate the registration of any registrant under this part who has been found guilty of conduct prohibited in subsection (1) or subsection (2).

Section 10. Except as otherwise expressly provided in this act, this act shall take effect January 1, 2025.

========== 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 virtual currency kiosk businesses; amending s. 560.103, F.S.; defining terms and revising the definition of the term "control person"; amending s. 560.105, F.S.; requiring the Office of Financial Regulation of the Financial Services Commission to supervise virtual currency kiosk businesses; authorizing the commission to adopt rules; creating part V of ch. 560, F.S., entitled "Virtual Currency Kiosk Businesses"; creating s. 560.501, F.S.; providing legislative intent; creating s. 560.502, F.S.; prohibiting a virtual currency kiosk business from operating without registering or renewing its registration in accordance with certain provisions;

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requiring the office to make certain electronic notifications; requiring a virtual currency kiosk business currently operating in this state to register with the office within a specified timeframe; requiring certain entities to be licensed as money services businesses; providing criminal penalties for certain entities that operate or solicit business as a virtual currency kiosk business under certain circumstances; providing criminal penalties for persons who register or attempt to register as a virtual currency kiosk business by certain means; providing that a virtual currency kiosk business registration is not transferable or assignable; creating s. 560.503, F.S.; specifying application requirements for registering as a virtual currency kiosk business; requiring certain virtual currency kiosk businesses to submit an application within a specified timeframe; requiring a registrant to report certain changes in information within a specified timeframe; requiring a registrant to renew its registration at a specified timeframe; specifying requirements for a registrant to renew its registration; requiring that the registration of a virtual currency kiosk business be made inactive if such business does not renew its registration by a certain date; specifying requirements for a virtual currency kiosk business to renew its registration after becoming inactive; providing that a registration becomes null and void under certain circumstances;

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providing requirements if a registration becomes null and void; requiring the office to deny certain applications under certain circumstances; requiring that certain applications be denied under certain circumstances; providing that certain false statements made by the virtual currency kiosk business render its registration void; authorizing the commission to adopt rules; creating s. 560.504, F.S.; specifying requirements for specified disclosures and attestations displayed by the virtual currency kiosk; authorizing the commission to adopt rules; creating s. 560.505, F.S.; requiring an owner-operator to transact business under its legal name; providing exceptions; requiring an owner-operator to maintain certain policies, processes, and procedures; creating s. 506.506, F.S.; providing criminal penalties for violations of certain provisions or performing certain acts; authorizing a court to invalidate the registration of a registrant under certain circumstances; providing effective dates.

555140

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
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	.	
	.	

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

Senate Amendment to Amendment (742132) (with title amendment)

Delete lines 112 - 117
and insert:
in accordance with s. 560.503. The office shall give written notice, in person or by mail, to each applicant that the agency has granted or denied the application for registration.

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

555140

And the title is amended as follows:

Delete lines 417 - 420

and insert:

requiring the office to make certain notifications;

By Senator Burton

12-00710-24 2024662__

A bill to be entitled

An act relating to virtual currency kiosk businesses; amending s. 560.103, F.S.; defining terms; amending s. 560.105, F.S.; requiring the Office of Financial Regulation of the Financial Services Commission to supervise registrants; authorizing the commission to adopt rules; creating part V of ch. 560, F.S., entitled "Virtual Currency Kiosk Businesses"; creating s. 560.501, F.S.; providing legislative intent; creating s. 560.502, F.S.; prohibiting a virtual currency kiosk business from operating without registering with the state; providing exemptions; requiring certain entities to be licensed as money services businesses; providing criminal penalties for money transmitters that operate or solicit business as a virtual currency kiosk business under certain circumstances; providing criminal penalties for persons who register or attempt to register as a virtual currency kiosk business by certain means; providing that a virtual currency kiosk business registration is not transferable or assignable; creating s. 560.503, F.S.; specifying application requirements for registering as a virtual currency kiosk business; requiring a registrant to report certain changes in information within a specified timeframe; specifying requirements for a registrant to renew its registration; requiring that the registration of a virtual currency kiosk business be made inactive if such business does not renew its

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

12-00710-24 2024662__

registration by a certain date; specifying requirements for a virtual currency kiosk business to renew its registration after becoming inactive; providing that a registration becomes null and void under certain circumstances; prohibiting the office from accepting certain applications under certain circumstances; providing that certain applications be denied under certain circumstances; providing that certain false statements made by the virtual currency kiosk business render registration void; authorizing the commission to adopt rules; creating s. 560.504, F.S.; specifying requirements for specified disclosures and attestations displayed by the virtual currency kiosk; authorizing the commission to adopt rules; creating s. 560.505, F.S.; requiring a registrant to transact business under its legal name; providing exceptions; creating s. 560.506, F.S.; providing criminal penalties for violation of certain provisions or performing certain acts; authorizing a court to invalidate the registration of a registrant under certain circumstances; providing an effective date.

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

Section 1. Present subsections (4) through (36) of section 560.103, Florida Statutes, are redesignated as subsections (5) through (37), respectively, and a new subsection (4) and subsections (38) through (41) are added to that section, to

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

read:

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

(4) "Blockchain analytics" refers to the process of examining, monitoring, and gathering insights from the data and transaction patterns on a blockchain network. The primary aim of blockchain analytics is to understand and monitor the network's health, track money flows, and identify potential security threats, including illicit activity, to extract actionable insights.

(38) "Virtual currency kiosk" means an electronic terminal that acts as a mechanical agent of the owner-operator, enabling the owner-operator to facilitate the exchange of virtual currency for fiat currency or other virtual currency for a customer.

(39) "Virtual currency kiosk business" or "registrant" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which operates a virtual currency kiosk and which is not a money transmitter as defined in this section.

(40) "Virtual currency kiosk transaction" means the process in which a customer uses a virtual currency kiosk to exchange virtual currency for fiat currency or other virtual currency. A transaction begins at the point at which the customer is able to initiate a transaction, after the customer is given the option to select the type of transaction or account, and does not include any of the screens that display the required terms and conditions, disclaimers, or attestations.

(41) "Wallet" means hardware or software that enables customers to store and use virtual currency.

Section 2. Paragraph (a) of subsection (1) and paragraph (b) of subsection (2) of section 560.105, Florida Statutes, are amended to read:

560.105 Supervisory powers; rulemaking.—

(1) The office shall:

(a) Supervise all money services businesses and their authorized vendors and registrants.

(2) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this chapter.

(b) Rules adopted to regulate money services businesses, including deferred presentment providers and registrants, must be responsive to changes in economic conditions, technology, and industry practices.

Section 3. Part V of chapter 560, Florida Statutes, consisting of ss. 560.501-560.506, Florida Statutes, is created and entitled "Virtual Currency Kiosk Businesses."

Section 4. Section 560.501, Florida Statutes, is created to read:

560.501 Legislative intent.—The Legislature intends to reduce unlawful and fraudulent activities by requiring virtual currency kiosk businesses to register with the state and by requiring such businesses and money transmitter licensees to regularly and consistently disclose to all customers of virtual currency kiosks certain specified risks relating to virtual currency kiosk transactions.

Section 5. Section 560.502, Florida Statutes, is created to read:

560.502 Registration required; exemptions; penalties.—

(1) A virtual currency kiosk business in this state may not

operate without first registering, or renewing its registration, in accordance with s. 560.503 and being issued a certificate of registration by the office.

(2) A money transmitter licensed as a money services business pursuant to s. 560.141 is exempt from registration as a virtual currency kiosk business but is subject to ss. 560.504, 560.505, and 560.506.

(3) If an entity, in the course of its business, acts as an intermediary with the ability to unilaterally execute or indefinitely prevent a virtual currency kiosk transaction, or otherwise meets the definition of a money transmitter as defined in s. 560.103, the entity must be licensed pursuant to s. 560.141.

(4) Unless licensed as a money services business pursuant to s. 560.141, a money transmitter that operates or solicits business as a virtual currency kiosk business without first being issued a certificate of registration by the office or without maintaining a certificate of registration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A person who registers or attempts to register as a virtual currency kiosk business by means of fraud, misrepresentation, or concealment commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) A virtual currency kiosk business registration issued under this part is not transferable or assignable.

Section 6. Section 560.503, Florida Statutes, is created to read:

560.503 Registration applications.—

(1) To apply to be registered as a virtual currency kiosk business under this part, the applicant must submit all of the following to the office:

(a) A completed registration application on forms prescribed by rule of the commission which must include the following information:

1. The legal name, including any fictitious or trade names used by the applicant in the conduct of its business, and the physical and mailing address of the applicant.

2. The date of the applicant's formation and the state in which the applicant was formed, if applicable.

3. The name, social security number, alien identification or taxpayer identification number, business and residence address, and employment history for the past 5 years for each person who meets the definition of a control person.

4. A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded.

5. The name of the registered agent in this state for service of process.

6. The physical address of the location of each virtual currency kiosk through which the applicant proposes to conduct or is conducting business in this state.

7. Any other information as required by this chapter or commission rule.

(b) A nonrefundable fee in accordance with s. 560.143(1)(b).

(c) Any information needed to resolve any deficiencies found in the application. This information must be submitted within 30 days after the date of the application or the date of any request by the office, whichever is later.

(2) A registrant shall report, on a form prescribed by rule of the commission, any change in the information contained in an initial application form, or an amendment thereto, within 30 days after the change is effective.

(3) A registrant must renew its registration annually on or before December 31 of the year of expiration. A registrant may not receive a prorated fee for registration. To renew such registration, the registrant must provide all of the following:

(a) The information required in paragraph (1)(a), if there are changes in the application information or an affidavit signed by the registrant that the information remains the same as the prior year.

(b) Upon request, evidence that the registrant has been operating in compliance with ss. 560.504 and 560.505. Such evidence may be prescribed by rule by the commission and may include, but is not limited to, all of the following:

1. Current disclosures presented to customers during the transaction process.

2. Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

(4) The registration of a virtual currency kiosk business that does not renew its registration by December 31 of the year of expiration must be made inactive for 60 days. A virtual currency kiosk business may not conduct business while its registration is inactive.

(5) Within 60 days after the registration becoming inactive pursuant to subsection (4), a virtual currency kiosk business must renew its registration by submitting all of the following:

(a) The information required in paragraph (1)(a), if there are changes in the application information or an affidavit signed by the registrant that the information remains the same as the prior year.

(b) Evidence that the registrant was operating in compliance with ss. 560.504 and 560.505. Such evidence may be prescribed by rule by the commission and may include, but is not limited to, all of the following:

1. Current disclosures presented to customers during the transaction process.

2. Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

Any renewal registration made pursuant to this paragraph will become effective upon the date of any certificate of registration that is issued by the office.

(6) Failure to submit an application to renew the virtual currency kiosk business's registration within 60 days after the registration becoming inactive pursuant to subsection (5) shall result in the registration becoming null and void. If the registration is null and void, a new application to register the virtual currency kiosk business must be submitted to the office and a certification of registration must be issued by the office before the virtual currency kiosk business may resume conducting business in this state.

(7) If a control person of a prospective registrant has

engaged in any unlawful business practices, or been convicted or found guilty of a crime involving dishonest dealing, fraud, acts of moral turpitude, or other acts that reflect an inability to engage lawfully in the business of a registered virtual currency kiosk business, the office may not accept the prospective registrant's initial registration application or the registrant's renewal application.

(8) A virtual currency kiosk business's renewal application that fails to provide evidence of compliance, if requested in paragraph (3)(b) or as required in paragraph (5)(b), must be denied by the office.

(9) Any false statement made by a virtual currency kiosk business with respect to the name of the business or its business address or location in any application for registration under this section renders the registration void. A void registration may not be construed as creating a defense to any prosecution for violation of this chapter.

(10) The commission may adopt rules to administer this section.

Section 7. Section 560.504, Florida Statutes, is created to read:

560.504 Disclosures.—

(1) Disclosures or attestations required by this section and displayed by a virtual currency kiosk must meet all of the following requirements:

(a) Be full and complete.

(b) Contain no material misrepresentations.

(c) Be readily understandable and in the language in which the virtual currency kiosk transaction is conducted.

(d) Be displayed in at least 14-point type.

(2) Before authorizing a customer to initiate a virtual currency kiosk transaction, the virtual currency kiosk business shall ensure that the virtual currency kiosk displays the disclosures in this section on two separate screens:

(a) The first disclosure must be in substantially the following form:

WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A STRANGER WHO IS INITIATING A DISHONEST SCHEME. I UNDERSTAND THAT DISHONEST SCHEMES MAY APPEAR IN MANY FORMS, INCLUDING, BUT NOT LIMITED TO:

1. Claims of a frozen bank account or credit card.
2. Fraudulent bank transactions.
3. Claims of identity theft or job offerings in exchange for payments.
4. Requests for payments to government agencies or companies.
5. Requests for disaster relief donations or loans.
6. Offers to purchase tickets for lotteries, sweepstakes, or drawings for vehicles.
7. Prompts to click on desktop pop-ups, such as virus warnings or communication from alleged familiar merchants.
8. Communication from someone impersonating a representative of your bank or a law enforcement officer.
9. Requests from persons who are impersonating

relatives or friends in need or promoting investment or romance scams.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

(b) The second disclosure must be in substantially the following form:

WARNING: FUNDS LOST DUE TO USER ERROR OR FRAUD MAY NOT BE RECOVERABLE. TRANSACTIONS CONDUCTED ON THIS VIRTUAL CURRENCY KIOSK ARE IRREVERSIBLE. I UNDERSTAND THESE RISKS AND WISH TO CONTINUE WITH CONDUCTING MY VIRTUAL CURRENCY KIOSK TRANSACTION.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

(3)(a) After the disclosures provided in subsection (2) are acknowledged by the customer, the virtual currency kiosk business must ensure that the virtual currency kiosk displays on a pop-up window the following question to the customer: "ARE YOU USING THIS KIOSK TO SEND VIRTUAL CURRENCY TO A WALLET OWNED BY SOMEONE ELSE?"

(b) The virtual currency kiosk business must require the customer to respond to the question in paragraph (a) with a "no" response before the customer can proceed to the attestation required in subsection (4).

(c) The virtual currency kiosk business must ensure that

the virtual currency kiosk terminates a customer's virtual currency kiosk transaction if the customer has provided a "yes" response to the question in paragraph (a).

(4) After the disclosure provided in subsection (2) and the affirmative answer to the question provided in paragraph (3)(a), the virtual currency kiosk business must ensure that the virtual kiosk displays, on a screen by itself, the following attestation: "I ATTEST THAT I AM YOUNGER THAN 60 YEARS OF AGE."

(a) If a customer attests that he or she is younger than 60 years of age, the virtual currency kiosk may allow the customer to proceed with the virtual currency kiosk transaction.

(b) If a customer attests that he or she is 60 years of age or older, the virtual currency kiosk business must ensure that the virtual currency kiosk provides such customer with a toll-free number to contact regarding the risks of engaging in virtual currency transactions. The toll-free number must be displayed on the virtual currency kiosk display after the customer attests that he or she is 60 years of age or older.

(c) After displaying the toll-free number required under paragraph (b), the virtual kiosk business must ensure that the virtual currency kiosk displays, on a screen by itself, the following attestation in substantially the following form:

I ATTEST THAT I AM 60 YEARS OF AGE OR OLDER. I ALSO ATTEST THAT I HAVE BEEN GIVEN A TOLL-FREE NUMBER AND THAT I HAVE HAD AN OPPORTUNITY TO CALL SUCH NUMBER TO SPEAK WITH SOMEONE REGARDING THE RISKS OF ENGAGING IN VIRTUAL CURRENCY KIOSK TRANSACTIONS. I FURTHER ATTEST THAT I UNDERSTAND THAT I MAY BE SOLELY RESPONSIBLE FOR

LOSS OF FUNDS DUE TO USER ERROR OR FRAUD.

(d) If a customer makes the attestation in paragraph (c), the virtual currency kiosk may allow the customer to proceed with the virtual currency kiosk transaction.

(e) If the customer does not make the attestation in paragraph (c), the virtual currency kiosk business must ensure that the virtual currency kiosk terminates the customer's virtual currency kiosk transaction.

(5) The commission may adopt rules to administer this section and to ensure that virtual currency kiosk disclosures are responsive to consumer fraud and emerging technology.

Section 8. Section 560.505, Florida Statutes, is created to read:

560.505 Conduct of business.—A virtual currency kiosk business may transact business under this part only under the legal name by which such business is registered. The use of a fictitious name is allowed if the fictitious name has been registered with the Department of State and disclosed to the office as part of an initial registration or license application, or subsequent amendment to the application, before its use.

Section 9. Section 560.506, Florida Statutes, is created to read:

560.506 Penalties.—

(1) A virtual currency kiosk business that violates s. 560.504 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Each of the following violations constitutes a

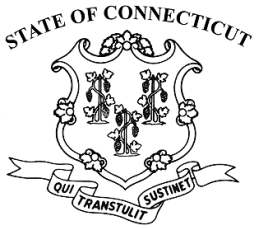
misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Operating under any name other than that designated in the registration, unless written notification is given to the office.

(b) Assigning or attempting to assign a virtual currency kiosk business registration issued under this part.

(3) In addition to the criminal penalties provided for under this section, a court may invalidate the registration of any registrant under this part who has been found guilty of conduct prohibited in subsection (1) or subsection (2).

Section 10. This act shall take effect January 1, 2025.



Substitute House Bill No. 6752

Public Act No. 23-82

AN ACT CONCERNING DIGITAL ASSETS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) (a) For purposes of this section, "commissioner" has the same meaning as provided in section 36a-2 of the general statutes.

(b) The commissioner may, in accordance with the provisions of chapter 54 of the general statutes, adopt, amend and rescind regulations, forms and orders governing the business use of digital assets, including, but not limited to, virtual currencies and stablecoins, by entities that, and individuals who, are subject to regulation by the commissioner, which regulations, forms and orders shall ensure consumer protection.

(c) In adopting, amending or rescinding any regulation, form or order pursuant to subsection (b) of this section, the commissioner may consult with federal financial services regulators, financial services regulators of other states, other stakeholders and industry professionals to ensure that digital assets receive, to the extent practicable, consistent treatment.

Sec. 2. Section 36a-596 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

As used in sections 36a-595 to 36a-612, inclusive<u>, and section 3 of this</u>

act:

(1) "Advertise" or "advertising" has the same meaning as provided in section 36a-485.

(2) "Authorized delegate" means a person designated by a person licensed pursuant to sections 36a-595 to 36a-612, inclusive, to provide money transmission services on behalf of such licensed person.

(3) "Control" means (A) the power to vote, directly or indirectly, at least twenty-five per cent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee; (B) the power to elect or appoint a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee; or (C) the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee. For purposes of this subdivision: (i) A person is presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least ten per cent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee, (ii) a person presumed to exercise a controlling influence can rebut such presumption if the person is a passive investor, and (iii) to determine the percentage of control, a person's interest shall be aggregated with the interest of any other immediate family member, including the person's spouse, parent, child, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law and any other person who shares the person's home.

(4) "Control person" means any individual in control of a licensee or applicant, any individual who seeks to acquire control of a licensee or a key individual.

(5) "Electronic payment instrument" means a card or other tangible

object for the transmission of money or monetary value or payment of money which contains a microprocessor chip, magnetic stripe, or other means for the storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in the issuer's goods or services.

(6) "Holder" means a person, other than a purchaser, who is either in possession of a payment instrument and is the named payee thereon or in possession of a payment instrument issued or endorsed to such person or bearer or in blank. "Holder" does not include any person who is in possession of a lost, stolen or forged payment instrument.

(7) "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, including, but not limited to, an executive officer, manager, director or trustee.

(8) "Licensee" means any person licensed or required to be licensed pursuant to sections 36a-595 to 36a-612, inclusive.

(9) "Main office" has the same meaning as provided in section 36a-485.

(10) "Monetary value" means a medium of exchange, whether or not redeemable in money.

(11) "Money transmission" means engaging in the business of issuing or selling payment instruments or stored value, receiving money or monetary value for current or future transmission or the business of transmitting money or monetary value within the United States or to locations outside the United States by any and all means including, but not limited to, payment instrument, wire, facsimile, **[**or**]** electronic transfer or virtual currency kiosk.

(12) "Outstanding" means (A) in the case of a payment instrument or stored value, that: (i) It is sold or issued in the United States; (ii) a report of it has been received by a licensee from its authorized delegates; and (iii) it has not yet been paid by the issuer, and (B) for all other money transmissions, the value reported to the licensee for which the licensee or any authorized delegate has received money or its equivalent value from the customer for transmission, but has not yet completed the money transmission by delivering the money or monetary value to the person designated by the customer.

(13) "Passive investor" means a person that: (A) Does not have the power to elect a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee; (B) is not employed by and does not have any managerial duties of the licensee or person in control of a licensee; (C) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and (D) attests to subparagraphs (A), (B) and (C) of this subdivision in the form and manner prescribed by the commissioner.

(14) "Payment instrument" means a check, draft, money order, travelers check or electronic payment instrument that evidences either an obligation for the transmission of money or monetary value or payment of money, or the purchase or the deposit of funds for the purchase of such check, draft, money order, travelers check or electronic payment instrument.

(15) "Permissible investment" means: (A) Cash in United States currency; (B) time deposits, as defined in section 36a-2, or other debt instruments of a bank; (C) bills of exchange or bankers acceptances which are eligible for purchase by member banks of the Federal Reserve System; (D) commercial paper of prime quality; (E) interest-bearing bills, notes, bonds, debentures or other obligations issued or guaranteed

by: (i) The United States or any of its agencies or instrumentalities, or (ii) any state, or any agency, instrumentality, political subdivision, school district or legally constituted authority of any state if such investment is of prime quality; (F) interest-bearing bills or notes, or bonds, debentures or preferred stocks, traded on any national securities exchange or on a national over-the-counter market, if such debt or equity investments are of prime quality; (G) receivables due from authorized delegates consisting of the proceeds of the sale of payment instruments which are not past due or doubtful of collection; (H) gold; and (I) any other investments approved by the commissioner. Notwithstanding the provisions of this subdivision, if the commissioner at any time finds that an investment of a licensee is unsatisfactory for investment purposes, the investment shall not qualify as a permissible investment.

(16) "Prime quality" of an investment means that it is within the top four rating categories in any rating service recognized by the commissioner unless the commissioner determines for any licensee that only those investments in the top three rating categories qualify as prime quality.

(17) "Purchaser" means a person who buys or has bought a payment instrument or who has given money or monetary value for current or future transmission.

(18) "Stored value" means monetary value that is evidenced by an electronic record. For the purposes of this subdivision, "electronic record" means information that is stored in an electronic medium and is retrievable in perceivable form.

(19) "Travelers check" means a payment instrument for the payment of money that contains a provision for a specimen signature of the purchaser to be completed at the time of a purchase of the instrument and a provision for a countersignature of the purchaser to be completed at the time of negotiation.

(20) "Unique identifier" has the same meaning as provided in section 36a-485.

(21) "Virtual currency" means any type of digital unit that is used as a medium of exchange or a form of digitally stored value or that is incorporated into payment system technology. Virtual currency shall be construed to include digital units of exchange that (A) have a centralized repository or administrator; (B) are decentralized and have no centralized repository or administrator; or (C) may be created or obtained by computing or manufacturing effort. Virtual currency shall not be construed to include digital units that are used (i) solely within online gaming platforms with no market or application outside such gaming platforms, or (ii) exclusively as part of a consumer affinity or rewards program, and can be applied solely as payment for purchases with the issuer or other designated merchants, but cannot be converted into or redeemed for fiat currency.

(22) "Virtual currency address" means an alphanumeric identifier representing a destination for a virtual currency transfer that is associated with a virtual currency wallet.

(23) "Virtual currency kiosk" means an electronic terminal acting as a mechanical agent of the owner or operator to enable the owner or operator to facilitate the exchange of virtual currency for fiat currency or other virtual currency, including, but not limited to, by (A) connecting directly to a separate virtual currency exchanger that performs the actual virtual currency transmission, or (B) drawing upon the virtual currency in the possession of the owner or operator of the electronic terminal.

(24) "Virtual currency wallet" means a software application or other mechanism providing a means for holding, storing and transferring virtual currency.

Sec. 3. (NEW) (*Effective October 1, 2023*) (a) The owner or operator of a virtual currency kiosk shall, in establishing a relationship with a customer and prior to entering into an initial virtual currency transaction for, on behalf of or with the customer, disclose in clear, conspicuous and legible writing in the English language all material risks associated with virtual currency generally, including, but not limited to, the following:

(1) A disclosure, which shall be acknowledged by the customer, provided separately from the disclosures provided pursuant to subdivisions (2) to (9), inclusive, of this subsection and written prominently and in bold type, stating the following: "WARNING: LOSSES DUE TO FRAUDULENT OR ACCIDENTAL TRANSACTIONS MAY NOT BE RECOVERABLE AND TRANSACTIONS IN VIRTUAL CURRENCY ARE IRREVERSIBLE.";

(2) Virtual currency is not backed or insured by the government and accounts and value balances are not subject to Federal Deposit Insurance Corporation, National Credit Union Administration or Securities Investor Protection Corporation protections;

(3) Some virtual currency transactions shall be deemed to be made when recorded on a public ledger, which may not be the date or time when the customer initiates the virtual currency transaction;

(4) The value of virtual currency may be derived from the continued willingness of market participants to exchange fiat currency for virtual currency, which may result in the permanent and total loss of the value of a particular virtual currency, if the market for that virtual currency disappears;

(5) There is no assurance that a person who accepts a virtual currency as payment today will continue to do so in the future;

(6) The volatility and unpredictability of the price of virtual currency

relative to fiat currency may result in a significant loss over a short period of time;

(7) The nature of virtual currency may lead to an increased risk of fraud or cyber attack;

(8) The nature of virtual currency means that any technological difficulties experienced by the owner or operator may prevent access to or use of a customer's virtual currency; and

(9) Any bond maintained by the owner or operator for the benefit of the customers of such owner or operator may not be sufficient to cover all losses incurred by such customers.

(b) The owner or operator of a virtual currency kiosk shall, when opening an account for a new customer and prior to entering into an initial virtual currency transaction for, on behalf of or with such customer, disclose in clear, conspicuous and legible writing in the English language, using not less than twenty-four point sans-serif-type font, all relevant terms and conditions associated with the products, services and activities of the owner or operator and virtual currency generally, including, but not limited to, the following:

(1) The customer's liability for unauthorized virtual currency transactions;

(2) The customer's right to stop payment of a preauthorized virtual currency transfer and the procedure used to initiate a stop-payment order;

(3) Under what circumstances the owner or operator will, absent a court or government order, disclose information concerning the customer's account to third parties;

(4) The customer's right to receive periodic account statements and

valuations from the owner or operator;

(5) The customer's right to receive a receipt, trade ticket or other evidence of a virtual currency transaction; and

(6) The customer's right to prior notice of a change in the rules or policies of the owner or operator.

(c) The owner or operator of a virtual currency kiosk shall, prior to each transaction in virtual currency for, on behalf of or with a customer, disclose to such customer in clear, conspicuous and legible writing in the English language, using not less than twenty-four point sans-serif-type font, the terms and conditions of the virtual currency transaction, including, but not limited to, the following:

(1) The amount of the transaction;

(2) Any fees, expenses and charges borne by the customer, including, but not limited to, applicable exchange rates;

(3) The type and nature of the virtual currency transaction;

(4) A warning that, once executed, the virtual currency transaction may not be undone, if applicable;

(5) A daily virtual currency transaction limit in accordance with subsection (g) of this section; and

(6) The difference in the sale price of the virtual currency versus the current market price.

(d) The owner or operator of a virtual currency kiosk shall ensure that each customer acknowledges receipt of all disclosures required under this section.

(e) The owner or operator of a virtual currency kiosk shall, upon the

completion of any virtual currency transaction, provide to the customer a receipt containing the following information:

(1) The name of, and contact information for, the owner or operator, including a telephone number established by the owner or operator to answer questions and register complaints;

(2) The type, value, date and precise time of such virtual currency transaction, and each virtual currency address;

(3) The fee charged;

(4) The exchange rate, if applicable;

(5) A statement of the liability of the owner or operator for nondelivery or delayed delivery;

(6) A statement of the refund policy of the owner or operator; and

(7) Any additional information the Banking Commissioner may require.

(f) The Banking Commissioner may establish a schedule of maximum fees that an owner or operator of a virtual currency kiosk may charge for specific services.

(g) There is established a maximum daily transaction limit of two thousand five hundred dollars for each customer of a virtual currency kiosk.

(h) The owner or operator of a virtual currency kiosk shall, at such owner's or operator's cost and within seventy-two hours after a virtual currency transaction, allow the customer to cancel and receive a full refund for the virtual currency transaction if such virtual currency transaction: (1) Is the customer's first virtual currency transaction with such owner or operator; and (2) is to a virtual currency wallet or

exchange located outside of the United States.

Approved June 27, 2023

Senate Bill No. 401

CHAPTER 871

An act to add Chapter 9 (commencing with Section 3901) to Division 1.25 of the Financial Code, relating to financial institutions.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 401, Limón. Digital financial asset transaction kiosks.

Existing law requires a bank, savings association, credit union, industrial loan company, savings bank, or other business entity, or a person who operates an automated teller machine to adopt procedures for evaluating the safety of an automated teller machine, including the incidence of crimes of violence in the immediate neighborhood of the automated teller machine as reflected in the records of the local law enforcement agency and of which the operator has actual knowledge.

This bill would provide for the regulation of digital financial asset transaction kiosks, as defined, by the Department of Financial Protection and Innovation. The bill would, among other things, prohibit an operator, as defined, from accepting or dispensing more than $1,000 in a day from or to a customer via a digital financial asset transaction kiosk. The bill would require, on or after January 1, 2025, an operator, before a digital financial asset transaction, to provide a written disclosure in English and in the same language principally used by the operator to advertise, solicit, or negotiate with a customer containing the terms and conditions of the transaction, including the amount of a digital financial asset involved in the transaction. The bill would require an operator to provide a customer with a receipt for any transaction made at the operator’s digital financial asset transaction kiosk that includes certain information, including the name of the customer and the date and time of the transaction. The bill would require an operator to provide to the department a list of all locations of digital financial asset transaction kiosks that the operator owns, operates, or manages in this state and would require the

department to make that list for each operator available to the public on the department's internet website.

This bill would become operative only if AB 39 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2024.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Chapter 9 (commencing with Section 3901) is added to Division 1.25 of the Financial Code, to read:

CHAPTER 9. Digital Financial Asset Transaction Kiosks

3901.

For purposes of this division:

(a) "Charges" means either of the following:

(1) Fees or expenses paid by the customer.

(2) The difference between the current market price of the digital financial asset on a licensed digital financial asset exchange and the price of the digital financial asset charged to the customer.

(b) (1) "Digital financial asset transaction kiosk" means an electronic information processing device that is capable of accepting or dispensing cash in exchange for a digital financial asset.

(2) As used in this subdivision, "cash" means physical United States currency, both coins and paper currency.

(c) “Licensed digital financial asset exchange” means a digital financial asset exchange that is not an operator and has either of the following:

(1) A license to conduct virtual currency business activity in this state or the State of New York pursuant to Part 200 of Title 23 of the New York Codes, Rules and Regulations.

(2) A license pursuant to this division.

(d) “Operator” means a person who owns, operates, or manages a digital financial asset transaction kiosk located in this state.

3902.

An operator shall not accept or dispense more than one thousand dollars ($1,000) in a day from or to a customer via a digital financial asset transaction kiosk.

3904.

On or after January 1, 2025, an operator shall not collect charges, whether direct or indirect, from a customer related to a single digital financial asset transaction that exceed the greater of the following:

(a) Five dollars ($5).

(b) Fifteen percent of the United States dollar equivalent of digital financial assets involved in the transaction according to the publicly quoted market price of the digital asset on a licensed digital financial asset exchange at the time the customer initiates the transaction.

3905.

(a) (1) On or after January 1, 2025, before a digital financial asset transaction, an operator shall provide a written disclosure in English and in the same language principally used by the operator to advertise, solicit, or negotiate with a customer containing the terms and conditions of the transaction, which shall include, at a minimum, all of the following:

(A) The amount of a digital financial asset involved in the transaction.

(B) The amount, in United States dollars, of any fees, expenses, and charges collected by the operator.

(C) The United States dollar price of the digital financial asset that is charged to the customer and the United States dollar price of the digital financial asset as listed by a licensed digital financial asset exchange.

(D) If an operator does not provide a method to reverse or refund a transaction, a warning that all transactions are final and cannot be undone.

(2) The disclosure required by this subdivision shall be clear and conspicuous and provided separately from any other disclosure provided by the operator.

(b) An operator shall provide a customer with a receipt for any transaction made at the operator's digital financial asset transaction kiosk that includes all of the following information:

(1) The name of the customer.

(2) The date and time of the transaction.

(3) The name of the operator.

(4) The amount of a digital financial asset involved in the transaction.

(5) The amount of United States dollars involved in the transaction.

(6) The amount, in United States dollars, of any fees collected by the operator in relation to the transaction.

(7) The amount, in United States dollars, of any spread between the United States dollar price of the digital financial asset that is charged to the customer and the United States dollar price of the digital financial asset as listed by a licensed digital financial asset exchange.

(8) The name of the licensed digital financial asset exchange the operator used to calculate the spread described in paragraph (7).

3906.

(a) An operator shall provide to the department a list of all locations of digital financial asset transaction kiosks that the operator owns, operates, or manages in this state.

(b) An operator shall provide the department with updates to the list required by this section within 30 days of any changes.

(c) The department shall make the list required by this section for each operator available to the public on the department's internet website.

3907.

(a) On or after July 1, 2025, an operator shall comply with Section 3201 to the extent that the operator engages in digital financial asset business activity.

(b) If an operator does not engage in digital financial asset business activity but allows or facilitates another person to engage in digital financial asset business activity via a

digital financial asset transaction kiosk that is owned, operated, or managed by the operator, the operator shall do all of the following:

(1) On or after July 1, 2025, ensure that the person engaging in digital financial asset business activity via the digital financial asset transaction kiosk has a license pursuant to this division.

(2) Ensure that any charges collected from a customer, whether collected by the operator, a person engaging in digital financial asset business activity via the digital financial asset transaction kiosk, or both, comply with the limits provided by Section 3904.

(3) Comply with all other provisions of this chapter.

SEC. 2.

This act shall become operative only if Assembly Bill 39 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2024.

From: Holloway, Jason
To: Moody, Jacqueline
Cc: Mason, Ash
Subject: Fwd: Kiosk Data
Date: Wednesday, January 17, 2024 9:53:51 AM
Attachments: iC3 ReportData (Jan 2020-Jan 2024) All FL ZIP Codes (Bitcoin ATMs).xls
iC3 ReportData (Jan 2020-Jan 2024) All FL ZIP Codes (Crypto ATM).xls
Bitcoin ATM Cmps Jan 2020-Jan 2024 (Consumer Sentinel).xlsx
Crypto ATM Cmps Jan 2020-Jan 2024 (Consumer Sentinel).xlsx

Good morning,

Would it work best if I merge the data together into one excel file for you and resubmit the Sunrise response?

As Alex states below, we have no way to know of report overlap so it might make sense to state a range of $16-$21 million.

He also stated that they are working on approximately 40 cases involving virtual currency kiosks.

Thank you,

Jason Holloway

Director of Fintech Policy
Office of Financial Regulation
200 E. Gaines Street
Tallahassee, FL 32399-0370
Office: (850) 410-9601
Mobile: (850) 766-7444

Email: Jason.Holloway@flofr.gov
www.flofr.gov

From: Toledo, Alex B <Alex.Toledo@flofr.gov>
Sent: Tuesday, January 16, 2024 4:21 PM
To: Holloway, Jason <Jason.Holloway@flofr.gov>
Cc: Mason, Ash <Ash.Mason@flofr.gov>
Subject: RE: Kiosk Data

Jason:

The two sources we used were the FBI's Internet Crime Complaint Center (iC3) and the Federal Trade Commission's Consumer Sentinel Database.

We refreshed the queries to show all complaint activity involving Florida victims from

January 2020 to the present using the search terms “Bitcoin ATM” and “Crypto ATM.”

We identified a total of **947 suspected Florida victims** during that period, representing **combined losses of $21,888,613.35.** There is, of course, the possibility that certain victims may have reported losses to both agencies and that would result in a double-count, but given the disparity between the individual agencies’ totals (roughly $16 million for the FBI and roughly $5.8 million for the FTC), I don’t think that would result in an invalidation of the overall data from either source.

When one considers the fact that only a small percentage of the victim population ever even reports their losses, the $21 million number may pale in comparison to the actual losses to Floridians.

Attached are the most up-to-date lists we have. I’ve removed specific victim identifying information where it was present. The spreadsheets don’t really lend themselves to merging into one since they have different formats, but hopefully the above explanation will serve as an adequate summary.

Also, this is not part of your original ask, but in case anyone’s interested, Since April of 2023, we’ve opened approximately 40 investigations related specifically to Crypto ATM losses.

Please let me know if this meets the mark or if there is anything additional we can provide to help move this legislation forward.

Thanks,

Alex

From: Toledo, Alex B
Sent: Tuesday, January 16, 2024 9:43 AM
To: Holloway, Jason <Jason.Holloway@flofr.gov>
Cc: Mason, Ash <Ash.Mason@flofr.gov>
Subject: RE: Kiosk Data

Yes, we can get that to you pretty quickly. Let me circle back with the team.

Thanks, Jason.

Alex

From: Holloway, Jason <Jason.Holloway@flofr.gov>
Sent: Tuesday, January 16, 2024 9:42 AM
To: Toledo, Alex B <Alex.Toledo@flofr.gov>
Cc: Mason, Ash <Ash.Mason@flofr.gov>
Subject: Kiosk Data

Good morning!

I sent the Senate Banking and Insurance the data from our last email exchange regarding money lost by crypto scams. I believe it was from two separate sources.

Do we have a document that shows up-to-date aggregate data from all the sources we've been able to access for amounts of money lost by Floridians?

They want a single document they can cite with a dollar amount they can put in the bill analysis.

Thanks you,

Jason Holloway

Director of Fintech Policy
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Reference Number	Complaint Date	Transaction Date	Complaint Info Amount Paid Value	Consumer City
158508865	4/6/2023		$7,000.00	Vero Beach
158514432	4/6/2023		$9,000.00	St. Petersburg
158331008	3/31/2023		$53,000.00	Tallahassee
158323125	3/30/2023		$30,000.00	Miami
158261186	3/28/2023		$4,000.00	Jacksonville
158129436	3/25/2023		$6,000.00	Tampa
158054311	3/22/2023		$18,000.00	Miami
157652344	3/16/2023		$0.00	Marco Island
157601025	3/10/2023		$8,000.00	Pensacola
157589303	3/9/2023		$1,000.00	Holiday
157593397	3/9/2023		$11,460.64	Melbourne
157597343	3/9/2023		$38,600.00	West Melbourne
157367542	3/3/2023		$6,000.00	Miami
157253170	2/28/2023		$4,900.00	Miami
157121445	2/25/2023		$15,910.00	Tallahassee
157052853	2/22/2023		$2,103.00	Coral Springs
156947400	2/18/2023		$8,177.00	Winter Park
156746302	2/15/2023		$6,394.00	Inverness
156606394	2/13/2023	2/13/2023		Gulf Breeze
156445807	2/10/2023		$4,556.00	Saint Petersburg
156246198	2/7/2023		$900.00	Wimauma
156063839	2/1/2023		$3,983.00	Tarpon Springs
155908136	1/27/2023		$14,900.00	Royal Palm Beach
155832585	1/26/2023	1/25/2023		Fernandina Beach
155844859	1/26/2023	1/17/2023		Pembroke Pines
155915235	1/26/2023		$30,000.00	Melbourne
155844708	1/25/2023	1/25/2023		Clarcona
155462950	1/20/2023		$17,008.50	Cocoa
155418548	1/19/2023	11/15/2022	$1,100.00	Lutz
155636350	1/18/2023		$4,100.00	Clearwater
155537571	1/16/2023		$900.00	Davie|Davie
155279783	1/9/2023		$2,900.00	Tampa
154840221	12/23/2022		$1,000.00	Sarasota
154841289	12/22/2022		$11,300.00	Lake Worth
154703187	12/17/2022		$2,500.00	Jacksonille
154698653	12/16/2022		$23,000.00	Longwood
154702577	12/16/2022		$9,000.00	Orlando
154543224	12/12/2022		$12,448.11	Orlando
154483140	12/10/2022		$3,500.00	Saint Johns
154358685	12/6/2022		$5,435.00	Ruskin
154351098	12/5/2022		$7,000.00	Saint Augustine
154227317	12/2/2022		$5,200.00	Land O Lakes
154162594	11/30/2022	11/30/2022		West Palm Beach
154111029	11/28/2022		$10,200.00	Spring Hill|Tampa
154107364	11/26/2022			Sarasota

153963053	11/22/2022		$25,000.00	Navarre
153756825	11/21/2022	11/8/2022	$0.00	tampa
153891835	11/18/2022		$5,000.00	New Port Richey
153828988	11/16/2022		$8,500.00	Leesburg
153392655	11/8/2022		$7,200.00	Clermont
153442659	11/7/2022	11/2/2022		Shalimar
153500102	11/5/2022		$1,000.00	Rotonda West
153441535	11/3/2022	11/2/2022		Saint Johns
153444462	11/3/2022		$400,000.00	Winter Garden
153449354	11/3/2022		$9,000.00	Davie
153364606	11/1/2022	11/1/2022		Brandon
153239654	10/28/2022		$400.00	Jacksonville
153159298	10/26/2022		$1,200.00	Pensacola
153034409	10/21/2022		$700.00	Fort Myers
153032667	10/20/2022	10/15/2022		North Miami Beach
152840083	10/14/2022	10/9/2022		Lake wales
152753795	10/12/2022		$75,000.00	Palm Beach Gardens
152754291	10/12/2022		$691.00	Boynton Beach
153105879	10/8/2022			DELAND
152585840	10/6/2022		$115,000.00	Port Orange
152465561	10/2/2022		$11,000.00	Parkland
152402721	9/30/2022		$3,100.00	Pensacola
152404009	9/30/2022	9/30/2022		Saint Petersburg
152325083	9/27/2022	9/27/2022		DeLand
152235212	9/21/2022	9/19/2022	$4,500.00	ST PETERSBURG
151856063	9/13/2022		$35,000.00	Fort Myers
151857603	9/13/2022		$4,000.00	Miami
151549140	9/7/2022		$9,300.00	Spring Hill|Tampa
151631815	9/7/2022	8/21/2022		Naples
151500587	9/2/2022		$7,395.00	Clermont|Slidell
151442154	9/1/2022		$16,500.00	Lakeland
151262078	8/26/2022		$1,800.00	Lehigh Acres
151264952	8/26/2022		$9,000.00	Winter Garden
151203199	8/24/2022		$2,900.00	Hialeah
151018669	8/20/2022		$6,000.00	Fort Walton Beach
151004590	8/19/2022	8/19/2022		Lakeland
150657429	8/10/2022	8/9/2022		Lakewood Ranch
150661928	8/8/2022		$110,000.00	MIAMI
151148641	8/3/2022	6/23/2022	$20,000.00	TALLAHASSEE, FL
150379385	7/29/2022		$1,000.00	Altamonte
150218489	7/27/2022		$36,015.00	Dade City|Dade City
150045889	7/20/2022		$7,097.00	Palm Harbor
149983605	7/19/2022	7/19/2022		Clewiston
149986241	7/19/2022		$8,645.00	Riverview
149981514	7/18/2022		$10,000.00	Orlando
149930647	7/16/2022		$9,000.00	Hobe Sound
149688542	7/15/2022		$10,000.00	Leesburg
149930950	7/15/2022	7/8/2022		

149782937	7/12/2022		$1,720.00	Land O Lakes
149651888	7/8/2022		$24,000.00	Wellington
149654229	7/8/2022		$117,000.00	Crestview
149658570	7/8/2022		$725.00	Tallahassee
149662126	7/8/2022		$6,900.00	West Palm Beach
149660546	7/7/2022		$2,980.00	Yulee
149586128	7/6/2022		$4,782.00	Jacksonville
149419678	6/30/2022		$350.00	Miami
149299086	6/25/2022		$82,500.00	Sarasota|Amherst
148846028	6/14/2022		$7,600.00	Port Saint Lucie
148841759	6/13/2022		$1,600.00	Riverview
148646092	6/7/2022		$2,634.75	West Palm Beach
148647688	6/6/2022	6/2/2022		Miramar
148567389	6/4/2022		$1,800.00	Dade City
148608671	5/28/2022	5/25/2022	$2,500.00	FORT MYERS
148287824	5/25/2022	5/24/2022		Tampa
148170664	5/21/2022	5/12/2022		Miami
148113649	5/20/2022		$750.00	Jacksonville
147980930	5/19/2022		$1,000.00	JACKSONVILLE
148106646	5/19/2022		$2,000.00	Hollywood
147915943	5/16/2022		$500.00	Clearwater
147852736	5/13/2022		$3,000.00	Pompano Beach
147795008	5/11/2022		$400.00	Riverview
147455892	5/3/2022		$100.00	Holiday
147464053	4/30/2022		$30,550.00	Debary
147394842	4/27/2022		$25,000.00	west palm beach
147309946	4/26/2022	4/26/2022		Stuart
147146879	4/22/2022		$10,625.00	Orlando
146802942	4/18/2022		$5,000.00	North Port
146828165	4/12/2022		$12,652.00	Miami
146482897	4/3/2022	3/21/2022		Naples
146426365	4/1/2022	3/29/2022		Jacksonville
146162064	3/25/2022		$18,500.00	Port Saint Lucie
146166524	3/25/2022		$25,000.00	Key Largo
146174410	3/24/2022	3/23/2022		Pensacola
146097253	3/23/2022		$650.00	Pensacola
145895191	3/20/2022		$600.00	Port Saint Lucie
145977072	3/19/2022		$4,900.00	Ormond Beach
145754154	3/18/2022	3/15/2022		Fort Lauderdale
145893046	3/17/2022		$1,100.00	Orlando
145903070	3/17/2022		$1,400.00	Lake Worth
145761247	3/13/2022	3/4/2022		Bradenton
145708566	3/11/2022		$3,800.00	Fort Myers
145627378	3/9/2022		$5,000.00	Melbourne
145511062	3/7/2022		$10,400.00	Pembroke Pines
145402380	3/5/2022		$2,665.00	Pensacola
145403690	3/4/2022		$8,500.00	Port Charlotte
145320554	3/3/2022	3/3/2022		Bradenton

145326288	3/3/2022	2/11/2022		Tampa
145239388	3/2/2022		$10,000.00	Panama City|Tallahassee
145233834	3/1/2022		$24,000.00	Orlando
145243207	3/1/2022		$1,200.00	Naples
145112809	2/25/2022		$10,000.00	Panama City
145023706	2/23/2022		$10,800.00	Pembroke Pines
144719321	2/18/2022		$17,000.00	Jacksonville
144844205	2/17/2022		$750.00	Miami Gardens
144823328	2/14/2022			LAKE MARY
144661052	2/11/2022		$4,900.00	North Lauderdale
145823555	2/11/2022	2/4/2022		THE VILLAGES
144385943	2/9/2022		$3,900.00	Hollywood
144523882	2/8/2022		$290.00	Navarre
144708346	2/8/2022	2/4/2022		THE VILLAGES
144476488	2/7/2022	1/20/2022		Orlando
144150414	2/2/2022			Parrish
144222201	1/30/2022	1/6/2022		Weston
143938461	1/23/2022	1/23/2022		Okeechobee
143737080	1/21/2022			Fort Pierce
143923442	1/21/2022		$2,435.00	West Palm Beach
143924994	1/21/2022	12/10/2021		North lauderdale
143729097	1/13/2022		$2,310.00	Miami
143446710	1/11/2022		$4,000.00	Yulee
143590006	1/10/2022		$120,000.00	Miramar
143436111	1/6/2022		$7,852.00	Sebring
143385341	1/3/2022		$12,500.00	North Port
143342997	12/31/2021	12/20/2021		Jacksonville
143141367	12/22/2021		$2,750.00	Orlando
143080145	12/19/2021	11/15/2021		Winter Haven
143012169	12/18/2021		$1,200.00	Miami
143022287	12/18/2021	12/17/2021		Tallahassee
142838421	12/16/2021	12/16/2021		
142947355	12/16/2021		$1,500.00	Palm Bay
142951938	12/16/2021		$200.00	Orlando
142959295	12/16/2021		$2,400.00	Lauderdale Lakes
142775331	12/10/2021	12/6/2021		Naples
142690204	12/8/2021		$3,800.00	Orlando
142593810	12/6/2021		$2,000.00	riviera beach
142544221	12/5/2021		$3,200.00	Saint Petersburg
142112418	11/19/2021		$7,000.00	Sarasota
141751686	11/9/2021		$5,000.00	Miami
141615300	11/6/2021		$650.00	Seffner
141604161	11/5/2021	10/3/2021		Tampa
141463181	11/1/2021	11/1/2021		Orlando
141396283	10/31/2021		$1,245.00	Dover
141197013	10/26/2021		$2,640.00	Brandon
141196388	10/25/2021		$500.00	Frostproof
140745226	10/17/2021		$1,940.00	Tallahassee

140592612	10/9/2021		$900.00	Winter Park
140509113	10/7/2021	10/4/2021	$4,551.83	Jacksonville
140384395	10/2/2021		$250.00	Orlando
140201308	9/28/2021		$13,500.00	Frostproof
140207610	9/28/2021		$300.00	Tampa
140136288	9/27/2021		$8,800.00	Saint Augustine
140139805	9/25/2021		$2,000.00	Jacksonville
140000926	9/22/2021		$2,085.00	Gainesville
139749805	9/17/2021		$2,200.00	LAKE WORTH
139752335	9/17/2021	8/30/2021		Homestead
139452192	9/15/2021	8/27/2021	$0.00	Oviedo
139432159	9/8/2021	9/8/2021		Jacksonville
139188384	9/1/2021		$800.00	LAUDERHILL
139048516	8/29/2021		$500.00	Jacksonville
139038263	8/28/2021		$10,000.00	Davie
140154890	8/27/2021	8/15/2021		KISSIMMEE
138865643	8/24/2021		$91,300.00	Gainesville
138815506	8/23/2021		$6,800.00	Ocala
138745103	8/20/2021		$7,000.00	Orlando
138598104	8/17/2021	8/13/2021		Altamonte Springs
138423537	8/12/2021		$4,125.00	Temple Terrace
137870221	7/29/2021	7/24/2021		Loxahatchee
137688540	7/22/2021		$420.00	El Portal
137457107	7/17/2021		$30,000.00	Orange Park
137483266	7/17/2021	7/17/2021		Pensacola
137379571	7/15/2021		$28,000.00	Clearwater
137198967	7/11/2021		$2,400.00	Miami
138070756	7/11/2021	6/5/2021		MIAMI
136790611	7/6/2021		$35,000.00	Middleburg
136766783	6/29/2021	6/28/2021		Boynton Beach
136608459	6/26/2021		$16,500.00	Pensacola
136202940	6/17/2021		$18,429.00	Gainesville
136207573	6/17/2021	6/17/2021		FORT LAUDERDALE
136147095	6/16/2021		$1,500.00	Lehigh Acres
136074355	6/14/2021		$1,430.00	Jacksonville
136002511	6/12/2021		$15,000.00	Orlando
135935996	6/10/2021		$900.00	Palmetto Bay
135466225	6/6/2021		$200.00	Tallahassee
135141576	6/3/2021		$700.00	Port Richey
135146957	5/28/2021	5/28/2021		Gainesville
135891897	5/22/2021	5/21/2021		PEMBROKE PINES
134841736	5/21/2021		$700.00	Marco Island
134831458	5/20/2021		$1,950.00	Tampa
134630023	5/16/2021		$8,000.00	Saint Petersburg
134454010	5/12/2021	5/12/2021		Tampa
134394711	5/11/2021		$9,000.00	Punta Gorda
134396350	5/11/2021		$13,798.00	Wellington
134322940	5/10/2021		$120.00	Palm Beach Gardens

135873198	5/8/2021	5/7/2021	$3,550.00	POMPANO BEACH
137386235	5/5/2021		$9,100.00	ST. AUGUSTINE
135316732	5/2/2021	4/30/2021		CAPE CORAL
133919638	5/1/2021	5/1/2021		Auburndale
135816118	4/23/2021	12/15/2020	$2,800.00	FORT LAUDERDALE
133458951	4/20/2021		$1,400.00	Haines City
133352355	4/19/2021		$2,300.00	Plant City
133148731	4/14/2021	4/14/2021		North fort myers
133143645	4/13/2021	4/13/2021		Miami
132372810	3/28/2021		$5,000.00	Cape Coral
130586258	3/26/2021		$3,000.00	Tampa
130723805	3/26/2021		$5,700.00	Springhill
130305101	3/25/2021		$500.00	Hialeah
135774477	3/25/2021	3/25/2021		ST PETERSBURG
132161824	3/24/2021		$1,000.00	Plant City
131950361	3/19/2021		$2,750.00	Orlando
131819126	3/17/2021		$30,000.00	HALLANDALE BEACH
131692699	3/15/2021		$300.00	Cocoa
131041017	3/2/2021		$11,260.00	Saint Cloud
130847057	2/26/2021		$23,000.00	Fort Myers
130716811	2/23/2021		$500.00	Hialeah
129866659	2/8/2021		$13,000.00	Ave Maria
129812748	2/6/2021		$1,500.00	Hialeah
129814911	2/5/2021		$1,500.00	Miami
129709785	2/4/2021	10/16/2020		Jupiter
129202563	1/27/2021	1/27/2021		Tampa
128800290	1/20/2021	1/19/2021		Fort Pierce
128497367	1/15/2021		$3,000.00	Ruskin
128613115	1/15/2021	1/15/2021		Valrico
128804540	1/15/2021			TAMPA
128417353	1/13/2021	1/12/2021		FORT LAUDERDALE
128129083	1/8/2021		$7,800.00	Pembroke Pines
127331348	12/21/2020	11/20/2020		Floral City
127456900	12/17/2020			Cape Coral
127141143	12/16/2020	12/14/2020		Miami
126764240	12/11/2020		$11,483.00	Miami
126592993	12/6/2020		$4,720.00	Odessa
125665158	12/3/2020	12/3/2020		Lighthouse Point
126429488	12/3/2020		$3,100.00	Orlando
125261788	12/1/2020		$9,600.00	Miami
126249773	11/30/2020	11/19/2020		Sebastian
125953348	11/21/2020		$3,272.00	Jacksonville
125794345	11/18/2020	11/18/2020		Kissimmee
125739218	11/17/2020		$6,497.00	Miami
125084499	11/2/2020		$1,900.00	Ruskin
124786082	10/27/2020		$450.00	Tallahassee
124752812	10/26/2020		$25,617.00	Clearwater
124770727	10/26/2020	10/16/2020		Orlando

124770936	10/26/2020	10/16/2020		Orlando
124728463	10/24/2020		$125,000.00	Clearwater
127600012	10/1/2020			Hialeah
121912823	9/29/2020	7/30/2020	$4,750.00	Palm Beach Gardens
123509347	9/25/2020	9/17/2020		Bradenton
123529785	9/25/2020	9/16/2020	$5,000.00	RIVERVIEW
123491379	9/24/2020	9/8/2020	$0.00	Palm Bay
122938134	9/12/2020	9/2/2020	$6,500.00	Plant City
122639486	9/4/2020	9/3/2020	$1,980.00	Orlando
122438076	8/31/2020	8/31/2020	$1,995.00	Miami
122234677	8/26/2020	8/21/2020	$1,750.00	Jacksonville
121971776	8/20/2020	8/6/2020		St. Augustine
121933678	8/12/2020			Miami
121562208	8/11/2020	8/7/2020	$700.00	Pensacola
121596903	8/11/2020	8/10/2020	$9,082.00	Zephyrhills
121507220	8/9/2020	8/7/2020	$0.00	Jacksonville
121355038	8/5/2020	8/5/2020	$1,400.00	
121209580	8/1/2020	7/5/2020	$19,700.00	
121193762	7/31/2020	7/26/2020		Kissimmee
120775639	7/21/2020	7/6/2020	$1,000.00	Miami
120724471	7/20/2020	7/20/2020		Orlando
120563880	7/15/2020	7/15/2020	$12,000.00	Fort Lauderdale
120298803	7/8/2020	6/29/2020		
119924218	6/26/2020	6/24/2020	$1,800.00	Sanford
119834528	6/24/2020	6/12/2020		Tampa
119761873	6/22/2020	6/22/2020		Tampa
119623985	6/17/2020	6/15/2020	$2,240.00	Melbourne
119535616	6/14/2020	6/3/2020	$10,800.00	Deltona
119438692	6/11/2020	6/10/2020		Gainesville
119441058	6/11/2020	6/10/2020	$6,000.00	Bradenton
119423884	6/10/2020	6/9/2020		Orlando
120447455	6/9/2020		$519.00	ORMOND BEACH
119314470	6/8/2020	6/8/2020		Doral
119286850	6/6/2020	5/6/2020		Jupiter
119295640	6/6/2020	6/6/2020		DeLand
119220988	6/4/2020	6/4/2020		
119227834	6/4/2020	6/3/2020		
119184065	6/3/2020	6/3/2020	$0.00	Pembroke Pines
119199475	6/3/2020	6/3/2020	$2,000.00	Kissimmee
119069000	6/1/2020	5/29/2020	$5,400.00	Ponte Vedra Beach
119056308	5/29/2020	5/29/2020	$0.00	Hialeah
118939177	5/27/2020	5/26/2020	$25,000.00	Doral
118775787	5/21/2020	5/8/2020		Tampa
118778520	5/21/2020	5/21/2020		Oldsmar
118670542	5/18/2020	5/15/2020		Sorrento
118508947	5/14/2020	4/29/2020	$2,000.00	St Petersburg
118440864	5/12/2020	5/10/2020		Fort Lauderdale
118384296	5/10/2020	5/9/2020		Oakland Park

118371800	5/9/2020	5/7/2020		Lehigh Acres
118323920	5/7/2020	5/7/2020		Jacksonville Beach
118240819	5/5/2020	5/3/2020		Dania Beach
118213958	5/4/2020	5/4/2020		Boca Raton
118233877	5/4/2020	5/2/2020		WINTER GARDEN
118078557	4/29/2020	4/22/2020	$250.00	Jacksonville
117912962	4/22/2020	4/17/2020	$2,580.00	Florida City
117810026	4/18/2020	4/17/2020		
117765449	4/16/2020	4/9/2020		Ormond Beach

Manufacturer	Operator	Store Types	
General Bytes	cryptodispensers	Smoke shop	
	Coinflip	Precious Metal Seller	
	Lowest Fee Bitcoin ATM	City centers	Sparkman Wharf
	CoinGenie	Discount Food Stores	
	Unbank	Coin Laundry	
	All Digital Coins Corp.	Gas stations	
	Coinhub Bitcoin ATM	Liquor stores	
	BudgetCoinz, LLC	Restaurants	
	BitcoinX ATM	Hookah Lounge	
	Krakem ATM	Kava/kratom Lounge	
Genesis Coin	National Bitcoin ATM	Tanning beds	
	Rockitcoin	Cigar Lounge	
	GetCoins	Coffee Shop	
	Cash2Bitcoin.com	Clothing Store	Western outfitters
	Bitbox ATM	Motels	Rodeway Inn
	Just Digital Coin	Hotels/Resorts	Margaritaville Orlando
	Athena Bitcoin		
ChainBytes	Big Buffalo Financials, LLC		
	BTM Machines		
ByteFederal	ByteFederal		
BitAccess	Crypto Mart		
	America's Bitcoin ATM		
	Bitcoin Depot		
AML Software	Cryptobase		
zzBit	zzBit		
Bitstop	Bitstop (Miami local)		

Internet Crime Complaint Center

City Report

State: Florida
Date Range: 04/01/2020 to 04/12/2023
Search Term: bitcoin atm
Term Proximity : 100
Preserve Word Order: False
Zip Codes Included
Complaint Type: All
Loss Type: Adjusted Loss
Sort: City Ascending
Crime Type(s):
- Advanced Fee
- BEC
- Botnet
- Confidence/Romance
- Credit Card/Check Fraud
- Crimes Against Children
- Data Breach
- Employment
- Extortion
- Government Impersonation
- Harassment/Stalking
- Identity Theft
- Investment
- IPR/Copyright and Counterfeit
- Lottery/Sweepstakes/Inheritance
- Malware
- NCDF
- Non-payment/Non-Delivery
- NTOC
- Overpayment
- Personal Data Breach
- Phishing
- Ransomware
- Real Estate

SIM Swap
Spoofing
Tech Support
Threats of Violence
No Lead Value
Other
Cryptocurrency Wallet
Cryptocurrency
Minimum Total Count To Return: 0
Unique Complaint IDs Returned: 441
Cities Returned: 172

CITY	VICTIM COUNT	VICTIM LOSS	SUBJECT COUNT	SUBJECT LOSS	FINANCIAL RECIPIENT COUNT	FINANCIAL RECIPIENT AMOUNT
? Hollywood	0	$0.00	1	$60,000.00	0	$0.00
32738	1	$10,000.00	0	$0.00	0	$0.00
Altamonte	1	$0.00	0	$0.00	0	$0.00
Altamonte Springs	0	$0.00	1	$200,000.00	0	$0.00
Apollo Beach	1	$180,000.00	0	$0.00	0	$0.00
Apopka	2	$500.00	0	$0.00	0	$0.00
Auburndale	0	$0.00	0	$0.00	1	$25,000.00
Aventura	1	$40,900.00	0	$0.00	0	$0.00
Aventura Fl.	1	$40,900.00	0	$0.00	0	$0.00
Avon Park	2	$80,400.00	0	$0.00	0	$0.00
Bell	1	$72,000.00	0	$0.00	0	$0.00
Boca Raton	4	$606,366.52	0	$0.00	0	$0.00
Bonitasprings	1	$23,100.00	0	$0.00	0	$0.00
Boynton Beach	6	$64,284.00	1	$14,400.00	0	$0.00
Bradenton	5	$45,585.00	0	$0.00	0	$0.00
Bradenton, Fl	1	$0.00	0	$0.00	0	$0.00
Brandon	3	$16,300.00	0	$0.00	0	$0.00

Bronson	1	$64,775.01	0	$0.00	0	$0.00
Brooksville	3	$82,070.00	0	$0.00	0	$0.00
Cantonment	0	$0.00	1	$10,942.93	0	$0.00
Cape Coral	1	$4,150.07	3	$6,250.00	0	$0.00
Clearwater	4	$65,200.00	0	$0.00	0	$0.00
Clermont	2	$428,630.00	2	$429,130.00	0	$0.00
Cocoa	1	$17,008.50	0	$0.00	0	$0.00
Coral Gables	3	$26,373.82	0	$0.00	1	$2,466.94
Coral Springs	2	$8,506.00	0	$0.00	0	$0.00
Crestview	1	$5,665.00	0	$0.00	0	$0.00
Dade City	3	$42,015.66	0	$0.00	0	$0.00
Davie	3	$33,765.00	0	$0.00	1	$17,000.00
Deerfield Beach	0	$0.00	0	$0.00	1	$3,465.00
Deland	1	$2,500.00	0	$0.00	0	$0.00
Delray Beach	3	$900.00	0	$0.00	0	$0.00
Deltona	10	$94,090.00	0	$0.00	0	$0.00
Destin	1	$15,000.00	0	$0.00	2	$28,999.00
Doral	0	$0.00	2	$21,994.25	0	$0.00
Dover	1	$0.00	1	$0.00	0	$0.00
Dunedin	0	$0.00	0	$0.00	1	$520.00
Edgewater	0	$0.00	1	$4,100.00	0	$0.00
Estero	1	$11,000.00	0	$0.00	0	$0.00
Fernandina Beach	2	$0.00	0	$0.00	0	$0.00

Fleming Island	1	$152,140.00	1	$152,140.00	0	$0.00
Floral City	1	$0.00	0	$0.00	0	$0.00
Florida	0	$0.00	0	$0.00	1	$10,000.00
Fort Lauderdale	2	$74,000.00	0	$0.00	1	$15,000.00
Fort Myers	8	$269,650.00	0	$0.00	0	$0.00
Fort Walton Beach	1	$300.00	0	$0.00	0	$0.00
Ftmyers	1	$20,000.00	0	$0.00	0	$0.00
Gainesville	3	$110,299.00	0	$0.00	0	$0.00
Gibsonton	2	$6,060.00	0	$0.00	0	$0.00
Grand Island	1	$8,600.00	0	$0.00	0	$0.00
Green Cove Springs	1	$200.00	0	$0.00	0	$0.00
Groveland	2	$9,000.00	1	$3,610.00	0	$0.00
Gulf Breeze	1	$135,000.00	0	$0.00	0	$0.00
Haines City	1	$33,000.00	0	$0.00	0	$0.00
Hallandale Beach	2	$47,000.00	0	$0.00	0	$0.00
Hastings	1	$7,376.46	0	$0.00	0	$0.00
Hernando	1	$0.00	0	$0.00	0	$0.00
Hialeah	3	$3,978.44	0	$0.00	0	$0.00
Hobe Sound	1	$8,800.00	0	$0.00	0	$0.00
Hollywood	4	$66,280.02	1	$19,900.00	0	$0.00
Homestead	1	$8,029.00	0	$0.00	0	$0.00
Homosassa	1	$1,600.00	0	$0.00	0	$0.00
Hudson	0	$0.00	0	$0.00	1	$50,000.00

Immokalee	1	$2,400.00	0	$0.00	0	$0.00
Inverness	1	$6,394.00	0	$0.00	0	$0.00
Ives Estates	1	$2,233.23	0	$0.00	0	$0.00
Jacksonville	6	$36,251.99	1	$4,972.00	2	$7,850.00
Jacksonville Beach	0	$0.00	1	$20,430.00	0	$0.00
Key West	1	$3,800.00	0	$0.00	0	$0.00
Kissimmee	2	$83,484.91	0	$0.00	0	$0.00
Labelle	1	$15,744.00	0	$0.00	0	$0.00
Lady Lake	3	$492,000.00	0	$0.00	0	$0.00
Lake Alfred	1	$2,040.00	0	$0.00	0	$0.00
Lake Mary	1	$150,000.00	0	$0.00	0	$0.00
Lake Worth	1	$4,000.00	0	$0.00	0	$0.00
Lakeland	4	$13,386.25	2	$3,995.00	0	$0.00
Land O Lakes	3	$18,837.86	0	$0.00	1	$1,964.68
Largo	2	$3,060.00	1	$4,909.00	0	$0.00
Lauderdale Lakes	2	$1,000.00	0	$0.00	0	$0.00
Lauderdale By The Sea	1	$5,000.00	0	$0.00	0	$0.00
Lauderhill	1	$0.00	0	$0.00	0	$0.00
Leesburg	6	$379,447.48	0	$0.00	0	$0.00
Lehigh Acres	1	$1,800.00	0	$0.00	0	$0.00
Lighthouse Point	1	$0.00	0	$0.00	0	$0.00
Longwood	2	$2,400.00	0	$0.00	1	$6,000.00
Lynn Haven	1	$1,984.00	0	$0.00	0	$0.00

Maitland	0	$0.00	1	$4,980.00	0	$0.00
Margate	0	$0.00	1	$0.00	0	$0.00
Marianna	1	$1,270.00	0	$0.00	0	$0.00
Melbourne	4	$15,800.00	0	$0.00	1	$7,550.00
Miami	24	$581,807.44	10	$344,537.35	10	$64,150.00
Miami Beach	2	$16,400.00	0	$0.00	0	$0.00
Miami Gardens	1	$30,000.00	0	$0.00	0	$0.00
Miami Lakes	2	$9,084.00	1	$700.00	0	$0.00
Middleburg	2	$52,086.72	1	$17,100.00	0	$0.00
Miramar	4	$153,298.00	0	$0.00	0	$0.00
Miramar Beach	2	$30,869.00	0	$0.00	0	$0.00
Mulberry	1	$0.00	0	$0.00	0	$0.00
Naples	8	$346,480.01	0	$0.00	1	$15,000.00
New Port Richey	8	$559,705.00	1	$12,250.00	1	$12,250.00
Nokomis	2	$640.00	0	$0.00	0	$0.00
North Bay Village	1	$1,300.00	0	$0.00	0	$0.00
North Fort Myers	2	$13,900.00	0	$0.00	0	$0.00
North Miami	1	$15,000.00	0	$0.00	1	$15,000.00
North Miami Beach	5	$149,700.00	1	$15,200.00	0	$0.00
North Port	1	$2,000.00	1	$2,000.00	1	$2,000.00
Ocala	2	$2,950.00	1	$0.00	1	$2,950.00
Ocklawaha	1	$9,000.00	0	$0.00	0	$0.00
Odessa	1	$1,200.00	0	$0.00	0	$0.00

Okeechobee	1	$45,000.00	0	$0.00	0	$0.00
Old Town	1	$25,991.74	0	$0.00	0	$0.00
Orange City	1	$5,170.00	0	$0.00	0	$0.00
Orlando	24	$261,762.40	5	$67,105.97	7	$59,616.00
Ormond Beach	2	$2,665.00	0	$0.00	0	$0.00
Palm Bay	1	$5,500.00	0	$0.00	0	$0.00
Palm Beach Gardens	2	$83,600.00	0	$0.00	0	$0.00
Palm City	1	$4,786.62	0	$0.00	0	$0.00
Palm Coast	3	$25,460.00	0	$0.00	0	$0.00
Palm Harbor	2	$8,500.00	0	$0.00	0	$0.00
Palmetto	2	$42,000.01	0	$0.00	0	$0.00
Panama City	1	$10,000.00	0	$0.00	0	$0.00
Pembroke Pines	6	$83,361.00	0	$0.00	0	$0.00
Pensacola	1	$10,000.00	0	$0.00	0	$0.00
Pinbrook Pines	1	$1,400.00	0	$0.00	0	$0.00
Pinellas Park	1	$200,000.00	0	$0.00	0	$0.00
Plant City	1	$1,000.00	0	$0.00	0	$0.00
Plantation	1	$90,000.00	0	$0.00	0	$0.00
Pllantation	1	$124,000.00	0	$0.00	0	$0.00
Pompano Beach	2	$5,690.00	2	$93,465.00	0	$0.00
Ponte Vedra	1	$6,300.00	0	$0.00	0	$0.00
Ponte Vedra Beach	1	$500.00	0	$0.00	0	$0.00
Port Charlotte	3	$900.00	0	$0.00	0	$0.00

Port Saint Lucie	3	$2,500.00	0	$0.00	0	$0.00
Port St. Lucie	3	$18,550.00	0	$0.00	0	$0.00
Riverview	3	$7,500.00	1	$0.00	0	$0.00
Royal Palm Beach	1	$90,233.00	0	$0.00	0	$0.00
Ruskin	1	$2,750.00	0	$0.00	0	$0.00
Sanford	2	$73,933.00	0	$0.00	0	$0.00
Sarasota	5	$84,050.00	0	$0.00	0	$0.00
Spring Hill	5	$117,382.86	1	$4,786.62	0	$0.00
St Augustine	3	$10,085.00	0	$0.00	0	$0.00
St Pete Beach	2	$4,800.00	0	$0.00	0	$0.00
St Petersburg	2	$0.00	0	$0.00	0	$0.00
St. Cloud	1	$14,949.00	0	$0.00	0	$0.00
St. Petersburg	3	$55,054.00	1	$7,054.00	0	$0.00
St.Petersburg	1	$16,730.00	0	$0.00	0	$0.00
Summerfield	1	$1,400.00	0	$0.00	0	$0.00
Sun City Center	0	$0.00	0	$0.00	5	$15,700.00
Sunrise	2	$13,300.00	2	$10,500.00	0	$0.00
Tallahassee	5	$66,739.00	0	$0.00	3	$55,514.00
Tampa	25	$130,756.67	3	$14,700.00	2	$2,800.00
Tampa Bay	0	$0.00	1	$2,070.00	0	$0.00
Tarpon Springs	3	$27,760.00	0	$0.00	0	$0.00
Tequesta	1	$0.00	0	$0.00	0	$0.00
The Villages	2	$1,000.00	0	$0.00	0	$0.00

Thonotosassa	1	$9,770.00	0	$0.00	0	$0.00
Trenton	1	$13,900.00	0	$0.00	0	$0.00
Valrico	2	$50,000.00	0	$0.00	0	$0.00
Venice	2	$79,500.00	0	$0.00	4	$49,600.00
Viera	1	$1,500.00	0	$0.00	0	$0.00
Wauchula	0	$0.00	0	$0.00	1	$22,087.04
Weeki Wachee	1	$19,000.00	0	$0.00	0	$0.00
Wellington	1	$16,530.38	0	$0.00	0	$0.00
Wesley Chapel	3	$9,700.00	0	$0.00	0	$0.00
West Palm Beach	6	$73,674.00	1	$42,500.00	1	$14,500.00
Weston	1	$29,800.00	0	$0.00	0	$0.00
Winter Garden	1	$0.00	0	$0.00	0	$0.00
Winter Haven	3	$64,820.00	1	$92,708.00	0	$0.00
Winter Park	2	$10,980.00	0	$0.00	0	$0.00
Winter Springs	1	$0.00	0	$0.00	0	$0.00
Yulee	1	$4,000.00	0	$0.00	0	$0.00
Zephyrhills	1	$9,064.00	0	$0.00	0	$0.00
Total	**392**	**$8,436,349.07**	**57**	**$8,436,349.07**	**53**	**$506,982.66**

OFR – The Sunrise Act Responses to 11.62(4)(5), F.S. for SB 662 / HB 977:

(4)

(a) Number of individuals or businesses that would be subject to regulation: ~26 known operators (2785 kiosks)

(b) Florida Blockchain Business Association, code of ethics/conduct not applicable.

(c) See attached documentation. More evidence can be provided upon request.

(d/e) The following states regulate virtual currency in a way that most virtual currency kiosks must comply with existing money transmission laws. However, California and Connecticut have separate regulatory regimes that apply directly to virtual currency virtual currency kiosks only. Virtual currency kiosk specific legislation is highlighted. Florida does not have a separate regulatory regime for virtual currency businesses or virtual currency kiosk businesses. Passage of SB 914 would create a regulatory regime for all virtual currency business and encompass existing virtual currency kiosk businesses.[1]

State by State Cryptocurrency Laws and Regulations | Bloomberg Law | Bloomberg Law

Alabama

A license is required for selling or issuing payment instruments, stored value, or receiving money or monetary value for transmission. “Monetary value” means a medium of exchange, including virtual or fiat currencies, whether or not redeemable in money. (**Ala. Code § 8-7A-2**; **Ala. Code § 8-7A-5**)

Alaska

Alaska Stat. § 06.55.990(15) defines money services as, “selling or issuing payment instruments or stored value, or receiving money or monetary value for transmission.” The Alaska Division of Banking and Securities states, “[c]ompanies dealing with fiat and virtual currencies (cryptocurrencies) must apply for a money transmitter license, then enter into a Limited Licensing Agreement (LLA) with the State of Alaska.”

Arizona

The definition of a money transmitter is found at **Ariz. Rev. Stat. § 6-1201()**. While the definition does not specifically apply to digital currency exchanges, Coinbase and Binance interpret it to require them to acquire Arizona money transmitter licenses.

[1] https://www.flsenate.gov/Session/Bill/2024/914/BillText/Filed/PDF

Arkansas

Arkansas's definition of money transmission expressly includes virtual currency; **A.C.A. § 23-55-102(12)(A)**, and allows investment in virtual currency by money transmitters; **A.C.A. § 23-55-701(b)**.

However, Arkansas has provided "no-action" letters to digital asset-issuing businesses freeing them from money transmission licensing requirements, e.g., **In re Mythical, Inc.** (June 22, 2020) (video game internal currency) ; **In re River Financial, Inc.** (May 21, 2020) (selling own reserves of Bitcoin)

California

The Department of Financial Protection and Innovation has not decided whether to regulate digital currency transmission under California's Money Transmission Act, see **DFPI Statement re: Coinbase** (Jan. 27, 2015) ; **DFPI Opinion Request** (Oct. 4, 2019) .

The DFPI regularly provides no-action letters regarding digital currency businesses **on its website** . Digital currency ATMs are often exempted, and a **May 27, 2021 opinion letter** exempted a peer-to-peer digital currency transaction platform from money transmission licensing.

Last year California enacted a new regulatory regime for virtual currency kiosks:

"The law prohibits an operator from accepting or dispensing more than $1,000 in a day from or to a customer via a digital financial asset transaction kiosk. The law also requires an operator, beginning on January 1, 2025, to provide written disclosure containing the terms and conditions of the transaction, including the amount of the digital financial asset involved. These disclosures, which must be made prior to when the digital financial asset transaction takes place, also must include information about whether the operator provides a method to reverse or refund a transaction (and, if not, a warning that transactions are final and cannot be undone), as well as the amount of the digital financial asset involved in the transaction, the amount in US dollars of fees, charges, etc., the price in US dollars charged by the operator to the customer for the digital financial asset, and the US dollar price of that same asset "as listed by a licensed digital financial asset exchange."

Further, total charges and fees cannot exceed the greater of $5.00 or 15% of the US dollar equivalent of the digital financial assets involved in the transaction based on the market price of that same asset quoted by a licensed digital financial asset exchange.

Transaction receipts must include customer name, transaction information, the spread between the dollar price of the digital financial asset that is charged to the customer and the dollar price of the digital financial asset as listed by a licensed digital financial asset exchange, and the name of the licensed digital financial asset exchange used by the

operator to calculate that spread. Operators also are required to disclose the locations of their kiosks to the DFPI (to be posted on the agency's website) and must provide an update to the agency within 30 days of changing or adding kiosk locations."[2]

Colorado

Colorado's 2018 interim guidance requires licensing as a money transmitter when using digital currency as a payment system.

Connecticut

A money transmitter license is required when transmitting digital currency, see

Conn. Gen. Stat. § 36a-596(18); **Conn. Gen. Stat. § 36a-597**. The licensee must state that it is dealing in virtual currency. **Conn. Gen. Stat. § 36a-598(a)(iv)**. Connecticut may apply additional scrutiny or requirements on virtual currency money transmitters. **Conn. Gen. Stat. § 36a-600(c)**, (d); **Conn. Gen. Stat. § 36a-602(a)**. Money transmitters must hold reserves in the same type and amount of virtual currency as all outstanding transactions. **Conn. Gen. Stat. § 36a-603(b)**.

Connecticut's Department of Banking has issued advisory opinions stating that digital currency exchanges are money transmitters, but digital currency "ATMs" are not. See Connecticut Department of Banking, "**Virtual Currency Money Transmission FAQs**"

A new bill signed into law last year (AN ACT CONCERNING DIGITAL ASSETS.) was effective October 1, 2023. It …"provides that prior to engaging in an initial virtual currency transaction with a customer, the owner or operator of a virtual currency kiosk is required to provide clear and conspicuous written disclosures in English regarding the material risks associated with virtual currency. These disclosures should cover several key points, including a prominent and bold warning acknowledging that losses resulting from fraudulent or accidental transactions may not be recoverable, transactions in virtual currency are irreversible, and that the nature of virtual currency may lead to an increased risk of fraud or cyber-attack. Disclosures must also address a customer's liability for unauthorized virtual currency transactions, a customer's right to stop payment for a preauthorized virtual currency transfer (along with the process to initiate a stop-payment order), and circumstances in which the owner or operator will disclose information regarding the customer's account to third parties, unless required by a court or government order. Additionally, customers must be provided upfront information relating to the amount of the transaction, any fees, expenses, and charges, and any applicable warnings. It is the responsibility of the owner or operator of a virtual currency kiosk to ensure that every customer acknowledges the receipt of all disclosures mandated by the Act, and to provide receipts upon completion of any virtual currency transaction."[3] A customer is also entitled to a refund for up to 72 hours on their initial virtual currency kiosk transaction.

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[2] California Enacts Two New Virtual Currency Laws // Cooley // Global Law Firm

[3] Connecticut establishes rules for virtual currency kiosks | Buckley LLP Infobytes Blog (buckleyfirm.com)

Delaware

5 Del. C. § 2303 requires a license for the undefined phrase "engage in the business of receiving money for transmission or transmitting the same." Virtual currency exchanges Coinbase and Binance maintain Delaware money transmitter licenses.

District of Columbia

Dealing in digital currency is money transmission requiring a license under D.C. law. See United States v. Harmon, 474 F. Supp. 3d 76, 89 (D.D.C. 2020).

Florida

A "money transmitter" under Fla. Stat. §560.103(23) "receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means"; a Florida appellate court found that this includes trade in digital currency. State v. Espinoza, 264 So. 3d 1055 (Fla. Dist. Ct. App. 2019). See also Fla. Stat. §896.101(f) (the Florida Money Laundering Act). Florida's amnesty period to comply with the Espinoza decision ends Dec. 31, 2021. See "Industry Alert: Amnesty Period for Virtual Currency Sellers"

Even before Espinoza, Florida considered the sale of a digital token tied to the ownership of a gram of gold to be governed by money transmitter laws. See In re G-Wallet Corp. (June 5, 2019). Florida has not yet considered whether money transmitter laws apply to digital tokens tied to less fungible objects of value.

The Florida Financial Technology Sandbox allows for the sandbox permission to substitute for a money transmitter license during the license period and relaxes a few other money transmitter requirements. Fla. Stat. §559.952(4)(a)(3) through (14)

Georgia

Georgia's money transmission laws define "money transmission" as receiving or transmitting "monetary value," and "virtual currency" is specifically defined as "a digital representation of monetary value." O.C.G.A. §7-1-680(13), (26). Therefore, a license is required under O.C.G.A. §7-1-681, and Georgia regulators have the power to enact virtual currency-specific rules. O.C.G.A. §7-1-690.

See also Georgia Department of Banking and Finance, "Money Transmission and the Sale of Payment Instruments" ; cf. "Department of Banking and Finance Orders CampBX, Bitcoin Trading Platform, to Cease and Desist" (July 26, 2018)

Hawaii

Haw. Rev. Stat. § 489D-4 defines money transmission with the broad "receiving money or monetary value for transmission," but digital currency businesses are, through June

30, 2022, instead given permission through the Digital Currency Innovation Lab in order to determine what licensing is necessary. See "DCIL FAQs" (Aug. 26, 2021)

Idaho

Idaho considers virtual currency exchanges to fall under the definition of money transmission requiring a license. See Idaho Department of Finance .

The Department of Finance regularly issues no-action letters to businesses such as digital currency ATMs freeing them from licensing requirements. Redacted no-action letters can be found on the Department of Finance's web site.

Illinois

The definition of "money transmitter" in 205 ILCS 657/5 does not expressly mention digital assets; however, the Department of Financial and Professional Regulation released guidance as to when a digital currency business must register as a money transmitter. See Digital Currency Regulatory Guidance (June 13, 2017) .

The Division of Financial Institutions regularly issues "non-binding statements" to virtual currency businesses ruling on whether the businesses must be licensed. These statements can be found on the Department of Finance's web site.

Indiana

The definition of money transmission in Ind. Code § 28-8-4-13 does not expressly mention virtual assets and may exclude virtual assets, including virtual currency, if sold for any purpose other than immediately facilitating a payment.

According to the Indiana money transmitter licensing FAQ on NMLS , a virtual currency exchange does not generally require a money transmitter license.

Iowa

There is no exclusion for digital currency businesses from Iowa's Uniform Money Services Act in Iowa Code § 533C.103. Digital currency dealers such as Coinbase have obtained money services licenses from the Iowa Department of Banking.

Kansas

K.S.A. § 9-508(h)'s definition of money transmission is broad enough to include digital currency.

However, under current administrative guidance a money transmitter license is not required when transmitting a decentralized digital currency; should the transmission of digital currency include the involvement of sovereign currency, a money transmitter

license may be required. See Office of the State Bank Commissioner, "Regulatory Treatment of Virtual Currencies Under the Kansas Money Transmitter Act" (May 18, 2021).

Kentucky

KRS 286.11-003 defines money transmission as "receiving money or monetary value to transmit…money or monetary value to another location inside or outside the United States by any and all means" which does not expressly include or exclude digital currency. Digital currency dealers such as Coinbase have obtained money services licenses from the Department of Financial Institutions.

Louisiana

The Louisiana Virtual Currency Businesses Act, La. Rev. Stat. §§ 6:1381 to 6:1394, provides a licensing scheme for virtual currency businesses. There is a long list of exceptions to licensing in La. Rev. Stat. § 6:1383(B) and (C), including all virtual currency regulated by Louisiana securities law and personal or academic use of virtual currency to buy goods and services.

Some exceptions may fall under the broad definition of money transmission under La. Rev. Stat. § 6:1032(13); Louisiana's Office of Financial Institutions still maintains its 2014 guidance stating that virtual currency exchangers require a money transmitter license.

Maine

As of Oct. 18, 2021, "virtual currency" is explicitly included in Maine's definition of money transmission, 32 MRSA §6102(10).

Maryland

As of October 1, 2021, the definition of "money transmission" in Md. Code, Fin. Inst. § 12-401(n)(1) includes "receiving…other value that substitutes for currency" ("currency" having the definition under 31 C.F.R. § 1010.100(m) as fiat currency) and transmitting it.

According to guidance on the Maryland Office of the Commissioner of Financial Regulation website , "an administrator or exchanger that accepts and transmits a convertible virtual currency or buys or sells convertible virtual currency for any reason is a money transmitter under federal regulations." The Office also states on its regulated industries page that its regulation of money transmission is "including transmission of virtual currency."

Digital currency businesses such as Binance and Coinbase currently maintain Maryland money transmitter licenses.

Massachusetts

Massachusetts's regulation of money transmission is only money transmission to foreign countries. See **209 CMR 45.02**; Mass.gov, "Apply for a **Money Transmitter License**" .

In a 2020 opinion letter, the Massachusetts Department of Banking found that transactions where fiat currency was exchanged for virtual currency between two parties across international borders, without more, was not money transmission requiring licensure. See **Division of Banks, Opinion 19-008** (Jan. 17, 2020). A digital wallet service was also found, on its facts, not to require a license. See **Division of Banks, Opinion 20-003** (May 22, 2020).

Selected Department of Banking opinion letters on virtual currency can be found **on the Department's website**.

Michigan

MCL 487.1003(c) defines "money transmission" as "selling or issuing payment instruments or stored value devices or receiving money or monetary value for transmission." **Michigan's Department of Insurance and Financial Services FAQs** states that holding funds in an "e-wallet" is money transmission requiring a license. **2019 guidance for consumers and industry** states that if federal regulators would require an "administrator or exchanger" to get a money transmission license, one is required under Michigan law.

Virtual currency exchanges such as Binance and Coinbase maintain Michigan money transmission licenses.

Minnesota

Money transmission under **Minn. Stat. § 53B.03** is defined as, "selling or issuing payment instruments or engaging in the business of receiving money for transmission or transmitting money ." Licenses are required for "businesses that cash checks, transmit money, own and operate ATMs, and provide electronic funds transfers," according to the **Minnesota Commerce Department** .

Some virtual currency exchanges such as Binance and Coinbase maintain Minnesota money transmission licenses.

Mississippi

Miss. Code § 75-15-3(f) defines "monetary value" as "a medium of exchange, whether or not redeemable in money," and **Miss. Code § 75-15-3(g)** defines "money transmission" to include receiving monetary value for transmission.

Some virtual currency exchanges such as Binance and Coinbase maintain Mississippi money transmission licenses.

Missouri

Missouri's "Sale of Checks" law defines a "check" as "any electronic means of transmitting or paying money." **Mo. Rev. Stat. § 361.700(2)(1)**.

Some virtual currency exchanges such as Binance maintain Missouri Sale of Checks licenses.

Montana

Money transmitters do not need a license in Montana, according to the **Department of Banking and Financial Regulations**.

Nebraska

Nebraska's money transmission law defines "monetary value" as "a medium of exchange, whether or not redeemable in money," **Neb. Rev. Stat. § 8-2715**, and therefore encompasses digital currency.

Effective Oct. 1, 2022, state-chartered "digital asset depository institutions" have the same exemption from money transmission registration as other banks. **Neb. Rev. Stat. § 8-2724**.

Slot machines and other "mechanical amusement cash devices" may only accept fiat currency or vouchers for same; virtual currency is specifically prohibited. 316 NAC 54-102.05B(5).

Nevada

The definition of "check" in **NRS § 671.010(1)** includes any "instrument used for the transmission or payment of money," and a license is required for "selling or issuing checks" or "receiving for transmission or transmitting money or credits." **NRS § 671.040(1).**

The Financial Institutions Division released a "**statement on regulation of cryptocurrency in Nevada**" stating that whether a business is a money transmitter is determined on a case-by-case basis; however, "any entity that facilitates the transmission of or holds fiat or digital currency by way of brick-and-mortar, kiosk, mobile, internet or any other means, should contact the NFID to request a licensure determination."

Nevada also has a sandbox, the "**Regulatory Experimentation Program for Product Innovation**" **NRS §§ 657A.100** to **657A.620**

New Hampshire

A business that solely deals in "convertible virtual currency" as defined by RSA § 399-G:1(VII) is exempt from money transmitter licensing, although still bound New Hampshire's general unfair trade practices law and regulated by the state Department of Justice's Consumer Protection Bureau. RSA § 399-G:3(VI)(a).

However, if a business deals in other forms of monetary value, RSA § 399-G:1(XV) expressly includes virtual currency so the business must be licensed under RSA § 399-G:2; see also New Hampshire's banking department policy statement.

New Jersey

The definition of "payment instrument" in N.J.S.A. 17:15C-2 is broad enough to include virtual currency in New Jeresy's money transmission licensing scheme. Virtual currency exchanges Binance and Coinbase both maintain New Jersey money transmitter licenses.

New Mexico

Although virtual currency is not explicitly mentioned in New Mexico's money services business regulation, see NMSA 1978 § 58-32-102, the New Mexico Regulation and Licensing Department considers dealing in virtual currency to require a license. See Financial Institutions Division, Money Services Businesses ; FAQs.

New York

New York's Department of Financial Services has a special "BitLicense" for virtual currency businesses promulgated at 23 NYCRR §§ 200.1 to 200.22. Nearly any commercial transfer, sale, purchase, or issuance of virtual currency requires a license. 23 NYCRR 200.2(q).

Businesses that engage in the transmission of fiat currency as well as virtual currency require both a BitLicense and a traditional money transmitter license as per N.Y. Banking Law § 641 . See BitLicense FAQs .

See also the Department of Financial Services' page on virtual currency.

North Carolina

North Carolina's definition of money transmission requiring a license expressly includes virtual currency. N.C.G.S. § 53-208.42(13)(b), (15). However, an express agent of the payee is still exempt from licensure even if paid in virtual currency. N.C.G.S. § 53-208.44(8). See "Money Transmitter Frequently Asked Questions."

Money transmitter licensees who deal in virtual currency may have to obtain an increased surety bond. N.C.G.S. § 53-208.47(d). Investments in virtual currency by licensees may be verified at any time by the Commissioner of Banks. N.C.G.S. § 53-208.48(c).

Ohio

Ohio Rev. Code § 1315.01(G)'s definition of "money transmission" encompasses nearly every transmission of monetary value. The money transmission licensing application provided by the Ohio Department of Commerce requires a dealer in virtual currency to provide a third-party audit of the licensee's computer systems.

Oklahoma

The definition of "money transmitter" in 6 O.S. § 1512(7) includes any transmission of funds across an electronic network. Many virtual currency exchanges maintain Oklahoma money transmission licenses.

Oregon

In the Oregon money transmitter laws, ORS 717.200(10)(b) defines "money" as a medium of exchange that "represents value that substitutes for currency." Oregon licenses digital currency exchanges as money transmitters.

Pennsylvania

Although 7 P.S. § 6101 defines "money" as a "product that is generally recognized as a medium of exchange" and a "transmittal instrument" to include "electronic transfer," the Pennsylvania Department of Banking and Securities issued guidance holding that only fiat currency is "money" and virtual currency trading platforms are exempt.

Rhode Island

Virtual currency transactions are expressly "currency transmission" under Rhode Island law. G.L.1956 § 19-14-1(4)(ii). Currency transmission requires a license, G.L.1956 § 19-14-2(3); however, there are a number of exceptions for specific situations in G.L.1956 § 19-14.3-1. Rhode Island has a list of mandated disclosures virtual currency businesses must make to their customers. G.L.1956 § 19-14.3-3.5. A Rhode Island licensee must maintain enough virtual currency to satisfy all of its customers' entitlements. G.L.1956 § 19-14.3-3.6.

See also "Rhode Island Currency Transmission Law: Frequently Asked Questions"

South Carolina

The South Carolina Attorney General's Money Services Division "views virtual currencies as lacking the characteristics necessary to be a medium of exchange" and therefore virtual currency businesses do not need to be licensed. See "Money Services FAQs" ; interpretive letter of Dec. 5, 2018 .

Virtual currency ATMs are specifically exempt as per an administrative order. Order no. MSD-19003 (Sept. 6, 2109).

South Dakota

South Dakota considers the term "monetary value" in SDCL 51A-17-1(13) to include virtual currency. See Division of Banking, "Virtual Currency Transmission in South Dakota" (May 25, 2019).

Tennessee

Tennessee does not consider cryptocurrency itself "money transmission," but many acts of converting virtual currency into fiat currency fall under the definition of money transmission and must be licensed. Tennessee Department of Financial Institutions, "Regulatory Treatment of Virtual Currencies Under the Tennessee Money Transmitter Act" (Dec. 16, 2015).

Texas

The Texas Department of Banking finds that exchange or transfer of most virtual currencies, standing alone, is not money transmission requiring a license. However, trade in stablecoins, or use of a third-party exchanger (including virtual currency "ATMs"), must be licensed as money transmission. See Supervisory Memorandum 1037, "Regulatory Treatment of Virtual Currencies Under the Texas Money Services Act," Apr. 1, 2019.

Utah

"Blockchain tokens" are explicitly excluded from Utah's money transmitter definition. Utah Code § 7-25-102(9)(b).

Virginia

The Virginia Bureau of Financial Institutions holds that virtual currencies are not included in the definition of money transmission under Va. Code § 6.2-1900 although transactions that also involve the transfer of fiat currency may be. "Notice to Virginia Residents Regarding Virtual Currency" (Aug. 25, 2021).

Washington

RCW 19.230.010(18) specifically states that virtual currency is included in the definition of money transmission. However, the implementing regulations say that storage of virtual currency without the unilateral power to transmit is not money transmission. WAC 208-690-015(4).

Virtual currency money transmitters must have a third party security audit of their computer systems. RCW 19.230.040(5); WAC 208-690-030(7). There are also virtual currency-specific investment and disclosure requirements; RCW 19.230.200(1), RCW 19.230.370, WAC 208-690-085(4), WAC 208-690-205(3). There is a separate minimum net worth requirement for licensees that also store virtual currency. WAC 208-690-060(2).

See also Washington Department of Financial Institutions, "Industry Guidance for Virtual Currency, Cryptocurrency, and Digital Assets"

West Virginia

1. Va. Code § 32A-2-1(6)considers "currency transmission" and "money transmission" synonymous, and both include the transfer of "value that substitutes for money."

However, a licensee under the West Virginia Fintech Regulatory Sandbox does not need to apply for a separate money transmitter license. W. Va. Code § 31A-8G-4(d), (e).

Wisconsin

The Wisconsin Department of Financial Institutions interprets its authority under Wis. Stat. § 217.03 as not extending to the transmission of virtual currency, although dealers in virtual and fiat currency likely need a license for the latter. See "Sellers of Checks."

Wyoming

"Buying, selling, issuing, or taking custody of payment instruments in the form of virtual currency or receiving virtual currency for transmission to a location within or outside the United States by any means" is exempt from licensing as money transmission under Wyoming law. Wyo. Stat. § 40-22-104(a)(vi).

Furthermore, The Wyoming Financial Technology Sandbox, Wyo. Stat. §§ 40-29-101 through 40-29-109; 021.0008.1 Wyo. Code R. §§ 1 to 8, explicitly applies to money transmission licensing. Wyo. Stat. § 40-22-104(b).

(f) Some ATM companies have implemented increased due diligence protocols and include disclaimers. Some VCKs are not regulated and do not provide protections.

(g) N/A

(h) This is the least restrictive new regulation on virtual currency kiosks proposed by any state in the country.

(i) Training would be similar to existing money transmission examination training.

(j) The bill mandates use of blockchain analytics software by VCKs to prohibit transactions to addresses linked to criminal activity. However, there are open-source, free versions of this software that can be utilized. De minimis costs to businesses and consumers. Minimal cost to government.

(k) MTL licensing fee

(l) n/a

(m) n/a

(5)

(a) 3 FTEs

(b) Similar to existing regulation for MSBs.

(c) n/a

The Florida Senate

APPEARANCE RECORD

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

1/22/2023
Meeting Date

Banking and Insurance
Committee

662 - Virtual Currency
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARP - Karen Murillo

Phone 850-567-0414

Address 215 S. Monroe St., Ste. 603
Street

Email kmurillo@aarp.org

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:
AARP

☐ 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

December 13, 2023

The Honorable Jim Boyd
Committee on Banking and Insurance
312 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Boyd,

I respectfully request SB 662: Virtual Currency Kiosk Businesses be placed on the Committee on 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, Administrative Assistant

REPLY TO:
❒ 100 South Kentucky Avenue, Suite 260, Lakeland, Florida 33801 (863) 413-1529
❒ 312 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 662
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/22/2024 1 Amendment 742132 was adopted w/o objection Burton		1/22/2024 2 Amendment to Amendment Barcode 555140 adopted Burton			
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
X		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
9	0	**TOTALS**	RCS	-	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 1074
INTRODUCER:	Senate Committee on Banking and Insurance and Senator Calatayud
SUBJECT:	Debt Relief Services
DATE:	January 23, 2024 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1074 establishes an exception to the credit counseling services provisions Part IV of ch. 817, F.S., for any telemarketer or seller who:

- Provides any debt relief service within the scope of specified federal telemarketing laws;
- Is required to comply with such federal regulation; and
- Such telemarketer or seller does not receive from the debtor and disburse to a creditor any money or other thing of value.

The bill defines the terms "telemarketer," "seller," and "debt relief service" to have the same meaning as in the Telemarketing Sales Rule, 16 C.F.R. s. 310.2.

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

II. Present Situation:

Debt Relief Services and Debt Management Services

Credit counseling agencies operating in Florida may provide services that meet the definition of "debt relief services" under Federal law and also fall within the definition of "debt management services" under Florida law.

Telemarketers who sell debt relief services are regulated under federal law, which defines "debt relief services" as:

> [A]ny program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector.[1]

Under Florida law, "debt management services" are defined as "services provided to a debtor by a credit counseling organization for a fee to:

- Effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor; *or*
- Receive from the debtor and disburse to a creditor any money or other thing of value.[2]

Providers of services captured by both of the foregoing definitions are therefore subject to Federal law regulating debt relief services and the credit counseling services provisions in ch. 817, F.S. Some providers that sell debt relief services, who comply with compensation requirements under federal law but fail to comply with the compensation requirements under Florida law for credit counseling agencies that provide debt management services, are at risk of being subjected to private causes of action under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA)[3] for violating provisions of ch. 817, F.S.[4]

Debt Relief Services in Florida

Consumer Debt Relief Initiative and American Association of Debt Relief report that approximately 180 debt settlement/debt resolution companies currently provide debt relief services to Floridians. Based on data points and general information provided by payment processors and industry leading organizations, there are approximately 325,000 Floridians who are actively enrolled in a debt relief services which is expected to increase in the next couple of years to more than 400,000 Floridians. With respect to debt settlement plans:[5]

- The average debt is approximately $30,000 spread over 6.7 accounts;
- The average income for enrolled consumers is approximately 10-15% above average household income;
- The average credit score for an enrolled consumer is 590;
- The average length of a plan is approximately 38 months; and
- The average monthly payment deposited into the client's personal dedicated account is approximately $465.

[1] 16 C.F.R. s. 310.2(o)
[2] Section 817.801(4), F.S.
[3] Part II of ch. 501, F.S.
[4] Section 817.806(1), F.S.
[5] Email from Kelly C. Mallette, Ronald L. Book, P.A., to Jacqueline Moody, Senior Attorney, Florida Senate Committee on Banking and Insurance, *Additional Information [Relating to SB 1074]*, (Jan. 18, 2024) (on file with Senate Committee on Banking and Insurance) (attaching "Debt Relief Services").

Currently, more than $5.6 billion of Floridians' unsecured debt is enrolled in debt settlement plans.[6]

Federal law

There are no federal laws that require credit counseling agencies to be licensed. As required under federal bankruptcy laws, however, the U.S. Department of Justice publishes a list of credit counseling agencies that are approved pursuant to this law.[7] According to the Consumer Financial Protection Bureau, credit counseling organizations are nonprofit organizations and provide services relating to:[8]

- Providing guidance on managing money and debts;
- Providing the consumer with a credit report or free educational materials and workshops;
- Assisting with developing a budget; and
- Creating and organizing a debt management plan to reduce the consumer's debt.

A consumer under a debt management plan makes payments to the credit counseling agency each month or pay period and the agency makes monthly payments to each of the consumer's creditors.[9] Under a debt management plan, a consumer may reduce their debt payment and save more money in interest than the fees required for the credit counseling service.[10]

Federal Debt Relief Services Regulation

The Telemarketing and Consumer Fraud and Abuse Prevention Act (the Telemarketing Act), 15 U.S.C. ss. 6101-6108, requires the Federal Trade Commission (FTC) to adopt rules prohibiting deceptive or other abusive telemarketing[11] acts or practices. The Telemarketing Act sets out specific provisions that must be contained in the rules, including, but not limited to, a provision that requires any person engaged in telemarketing for the sale of goods or services to promptly and clearly disclose that the purpose of the call is to sell the services, the nature and price of the services, and any other disclosures required by the FTC.[12] The FTC has adopted the required rules in the Telemarketing Sales Rule (TSR). The Telemarketing Act authorizes any state to bring a civil action against any person who has violated the TSR to obtain damages, restitution, or other compensation, to enjoin the telemarketing, to enforce compliance, or to obtain such further relief as the court may deem appropriate.[13]

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[6] *Id.*
[7] The U.S. Department of Justice, *List of Credit Counseling Agencies Approved Pursuant to 11 U.S.C. §111*, available at: U.S. Trustee Program | List of Credit Counseling Agencies Approved Pursuant to 11 U.S.C. § 111 | United States Department of Justice (last visited Jan. 18, 2024).
[8] The CFPB, *What is Credit Counseling*, Aug. 2, 2023, available at: What is credit counseling? | Consumer Financial Protection Bureau (consumerfinance.gov) (last visited Jan. 18, 2024).
[9] *Id.*
[10] Experian, *How Much Can a Debt Management Plan Save You?*, Apr. 3, 2023, available at: Can a Debt Management Plan (DMP) Save You Money? - Experian (last visited Jan. 18, 2024).
[11] 15 U.S.C. s. 6106 defines "telemarketing" as "a plan, program, or campaign which is conducted to induce purchases of goods or services, or a charitable contribution, donation, or gift of money or any other thing of value, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog" that meet specified criteria.
[12] 15 U.S.C. s. 6102(a)(3).
[13] 15 U.S.C. s. 6103(a).

The TSR, amongst other things, prohibits any person, such as a seller[14] or telemarketer,[15] from engaging in deceptive telemarketing acts or practices which include, but are not limited to:[16]

- Before a customer consents to the purchase of services, failing to truthfully, clearly, and consciously disclose specified material information, including specific information relating to the sale of any debt relief service;[17]
- Misrepresenting in the sale of services any of the specified material information; and
- Causing billing information to be submitted for payment, or collecting or attempting to collect payment for services without express verifiable authorization, except in specified circumstances.

The specified disclosures for debt relief services include, to the extent applicable, information relating to:[18]

- The amount of time necessary to achieve the represented results or to make a bona fide settlement offer;
- The amount of money or the percentage of each outstanding debt that the customer must accumulate before the debt relief service provider will make a bona fide settlement offer to each of them;
- The use of the debt relief services that will likely adversely affect the customer's creditworthiness, may result in the customer being subject to collections or sued by creditors or debt collectors, and may increase the amount of money the customer owes; and
- The customer's funds held in an account being owned by the customer.

The TSR also prohibits abusive telemarketing acts or practices that restrict when a telemarketer or seller may request or receive payment of any fee or consideration for any debt relief service until or unless:[19]

- The telemarketer or seller has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt;
- The customer has made at least one payment pursuant to a specified agreement or plan; and
- The fee:
    - Bears the same proportional relationship to the total fee for renegotiating, settling, reducing, or altering the terms of the entire debt balance as the individual debt amount bears to the entire debt amount; or

Is a percentage of the amount saved as a result of the renegotiation, settlement, reduction, or alteration.

[14] 16 C.F.R. s. 310.2(dd) defines "seller" as "any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration."
[15] 16 C.F.R. s. 310(gg) defines "telemarketer" as "any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor."
[16] 16 C.F.R. s. 310.3.
[17] 16 C.F.R. s. 310.2(o) defines "debt relief service" as "any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector."
[18] 16 C.F.R. s. 310.3(a)(1)(viii).
[19] 16 C.F.R. s. 310.4(a)(5).

Florida law

Credit counseling services are regulated under part IV of ch. 817 of the Florida Statutes. A credit counseling agency may provide credit counseling services or debt management services.[20] Credit counseling services may include "confidential money management, debt reduction, and financial education services."[21]

There are several exceptions for which part IV does not apply, including:[22]

- Any debt management or credit counseling services provided in the practice of law;
- Any person[23] who engages in debt adjustment to adjust the indebtedness owed to such person;
- Specified entities or their subsidiaries, including:
  - The Federal National Mortgage Association,
  - The Federal Home Loan Mortgage Corporation,
  - The Florida Housing Finance Corporation,
  - A bank, bank holding company, trust company, savings and loan association, credit union, credit card bank, or savings bank that is regulated and supervised by a specified federal regulator or any state banking regulator,
  - A consumer reporting agency,[24] or
  - Any subsidiary or affiliate of a bank holding company, its employees and its exclusive agents acting under written agreement.

It is unlawful for any person to charge or accept more than the regulated fee or contribution [25] from a debtor residing in Florida while engaging in debt management services or credit counseling services. Specifically, a fee or contribution:[26]

- Greater than $50 for the initial setup or consultation;
- Greater than $120 per year for additional consultations; or
- If debt management services are provided, the lesser of 15% of the amount paid monthly by the debtor to the person or $75 per month.

Any person engaging in debt management services or credit counseling services must disburse to the appropriate creditors all funds received from a debtor, less any permitted fees and credit contributions, within 30 days after receipt of the funds. Such person is required to maintain a separate trust account for the receipt and disbursement of any funds.[27]

[20] Section 817.801(1), F.S.
[21] Section 817.801(2), F.S.
[22] Section 817.803, F.S.
[23] Section 817.801(5), F.S., defines "person" as "any individual, corporation, partnership, trust, association, or other legal entity."
[24] "Consumer reporting agency" means "any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports." 15 U.S.C. s. 1681a(f).
[25] Section 817.801(3), F.S., defines creditor contribution as "any sum that a creditor agrees to contribute to a credit counseling agency, whether directly or by setoff against amounts otherwise payable to the creditor on behalf of debtors."
[26] Section 817.802(1), F.S. Florida law does not prohibit any person who is providing debt management or credit counseling services from imposing upon and receiving from a debtor a reasonable and separate charge or fee for insufficient funds transactions. Section 817.802(2), F.S.
[27] Section 817.805, F.S.

Any person engaged in debt management services or credit counseling services must comply with the following requirements:[28]

- Obtain from a licensed certified public accountant an annual audit that must include specified accounts; and
- Obtain and maintain insurance coverage of minimum specified amounts for employee dishonesty, depositor's forgery, and computer fraud.

Any person who violates any provision of the credit counseling services provision under Part IV commits an unfair and deceptive trade practice.[29]

Florida Deceptive and Unfair Trade Practices

The FDUTPA provides that unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.[30] This makes sellers and telemarketers subject to the enforcement actions identified in part II of ch. 501, F.S., which include civil actions brought by the Attorney General and criminal prosecution by a State Attorney in the appropriate judicial circuit. Civil actions may also include an injunction, an action seeking damages, or a civil penalty up to $10,000 per violation.[31]

Florida Telemarketing Act

Although the Florida Telemarketing Act[32] does not contain explicit provisions on telemarketing debt relief services, telemarketers who sell debt relief services in Florida are nonetheless required to comply with the general provisions of the Act. Unless an exemption applies,[33] a commercial telephone seller or an entity providing substance abuse marketing services must obtain a license from the Department of Agriculture and Consumer Services (DACS) to conduct business in Florida.[34] The Florida Telemarketing Act requires the entities that apply for a license to disclose specified information to the DACS.[35] The DACS may issue a notice of noncompliance, impose an administrative fine, or issue other orders if any regulated entity, applicant, or certain specified related persons meet certain criteria, such as being convicted of certain crimes or filed for bankruptcy within the previous 7 years.[36] The Telemarketing Act provides other protections such as subjecting any person who engages in certain unlawful acts or practices to civil penalties or criminal prosecution.[37]

[28] Section 817.804, F.S.
[29] Section 817.806(1), F.S.
[30] Section 501.204(1), F.S.
[31] Section 501.2075, F.S.
[32] Part IV of chapter 501, F.S.
[33] Section 501.604, F.S., provides for exemptions relating to, for instance, an isolated transaction, solicitation for religious or charitable purposes, or a licensed securities broker.
[34] Section 501.605(1), F.S.
[35] Section 501.606, F.S.
[36] Section 501.612, F.S.
[37] Sections 501.616, 501.619, and 501.623 F.S.

III. Effect of Proposed Changes:

CS/SB 1074 provides that the credit counseling services provisions do not apply to debt relief services, which are regulated under the TSR. **Section 1** of the bill adds an exception to the provisions of credit counseling services for telemarketers and sellers who:

- Provide debt relief services within the scope of the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. ss. 6101-6108, and the Telemarketing Sales Rule, 16 C.F.R. part 310;
- Are required to comply with such federal regulation; and
- Do not receive from the debtor or disburse to a creditor any money or other thing of value, in accordance with the second prong of the definition of "debt management services" under s. 817.801(4)(b), F.S.

The terms "telemarketer,"[38] "seller,"[39] and "debt relief service"[40] have the same meaning as the definitions in the TSR.

The bill's amendments to current law will limit the legal actions brought against telemarketers of debt relief services for failing to comply with ch. 817, F.S. However, such sellers would remain subject to causes of action pursuant to 15 U.S.C. s. 6103 for violating the provisions of the TSR. Telemarketers of debt relief services are also subject to causes of action for any violations of the requirements under FDUTPA or any violations of the Florida Telemarketing Act.

Section 2 of the bill 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.

[38] *Supra*, note 21.
[39] *Supra*, note 20.
[40] *Supra*, note 23.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Florida Office of Attorney General (the OAG) reports that the bill may subject consumers to higher fees but it is unknown to what extent or with what frequency this may occur.[41]

C. Government Sector Impact:

The Florida OAG reports that the fiscal impact would be "minimal or indeterminate, and would be absorbed within current resources."[42]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 817.803.

IX. Additional Information:

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

CS by Banking and Insurance Committee on January 22, 2024:

- Expands the list of exceptions that are within the scope of the credit counseling services provisions under ch. 817, F.S., relating to debt relief services;
- Provides certain terms have the same meaning as the TSR.

B. Amendments:

None.

[41] Email from Elizabeth Guzzo, Director of Legislative Affairs, the OAG, to Jacqueline Moody, Senior Attorney, Florida Senate Committee on Banking and Insurance, *SB 1074 – Debt Relief Services*, (Jan. 17, 2024) (on file with Senate Committee on Banking and Insurance).
[42] Email from Elizabeth Guzzo, Director of Legislative Affairs, the OAG, to Jacqueline Moody, Senior Attorney, Florida Senate Committee on Banking and Insurance, *SB 1074 – Debt Relief Services*, (Jan. 19, 2024) (on file with Senate Committee on Banking and Insurance).

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 817.803, Florida Statutes, is amended to read:

817.803 Exceptions. ~~Nothing in~~ This part does not apply ~~applies~~ to:

(1) Any debt management or credit counseling services provided in the practice of law in this state.~~;~~

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(2) Any person who engages in debt adjustment to adjust the indebtedness owed to such person.~~; or~~

(3) Any of the following entities or their subsidiaries:

(a) The Federal National Mortgage Association.~~;~~

(b) The Federal Home Loan Mortgage Corporation.~~;~~

(c) The Florida Housing Finance Corporation, a public corporation created in s. 420.504.~~;~~

(d) A bank, bank holding company, trust company, savings and loan association, credit union, credit card bank, or savings bank that is regulated and supervised by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of Financial Regulation of the Department of Financial Services, or any state banking regulator.~~;~~

(e) A consumer reporting agency as defined in the Federal Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681y, as it existed on April 5, 2004.~~; or~~

(f) Any subsidiary or affiliate of a bank holding company, its employees and its exclusive agents acting under written agreement.

(4)(a) Any telemarketer or seller who provides any debt relief service within the scope of the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. ss. 6101-6108, and the Telemarketing Sales Rule, 16 C.F.R. part 310, and who therefore is required to comply with such federal regulation, if such telemarketer or seller does not receive from the debtor and disburse to a creditor any money or other thing of value, in accordance with the definition of debt management

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services under s. 817.801(4)(b).

(b) As used in this subsection, the terms "telemarketer," "seller," and "debt relief service" have the same meaning as in 16 C.F.R. s. 310.2.

Section 2. 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 debt relief services; amending s. 817.803, F.S.; providing an exception from specified provisions for telemarketers and sellers who provide debt relief services under certain circumstances; defining terms; providing an effective date.

By Senator Calatayud

38-01025-24 20241074__

A bill to be entitled

An act relating to debt relief services; amending s. 817.801, F.S.; revising the definition of the term "debt management services"; defining the term "debt relief service"; amending s. 817.806, F.S.; specifying that provisions for enforcement of violations involving credit counseling services or debt management services do not apply to debt relief services; authorizing the Attorney General to bring certain actions for violations of specified federal regulations of debt relief services; providing an effective date.

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

Section 1. Present subsection (5) of section 817.801, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsection (4) of that section is amended, to read:

817.801 Definitions.—As used in this part:

(4) "Debt management services" means services provided to a debtor by a credit counseling organization for a fee to:

(a) Effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor; and ~~or~~

(b) Receive from the debtor and disburse to a creditor any money or other thing of value.

The term does not include debt relief services.

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

38-01025-24 20241074__

(5) "Debt relief service" has the same meaning as provided in 16 C.F.R. s. 310.2. The term does not include a debt management service in which any money or other thing of value is received from a debtor and disbursed to a creditor.

Section 2. Section 817.806, Florida Statutes, is amended to read:

817.806 Violations.—

(1)(a) Any person who violates any provision of this part commits an unfair or deceptive trade practice as defined in part II of chapter 501. Violators shall be subject to the penalties and remedies provided therein. Further, any consumer injured by a violation of this part may bring an action for recovery of damages. Judgment shall be entered for actual damages, but in no case less than the amount paid by the consumer to the credit counseling agency, plus reasonable attorney ~~attorney's~~ fees and costs.

(b) ~~(2)~~ Any person who violates any provision of this part commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(c) This subsection does not apply to debt relief services.

(2) As authorized in 16 C.F.R. s. 310.7, the Attorney General may bring an action under the federal Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. ss. 6101-6108, against a debt relief services provider for violations of debt relief services regulations in 16 C.F.R. part 310.

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

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

From: Elizabeth Guzzo
To: Moody, Jacqueline
Subject: RE: SB 1074 - Debt Relief Services
Date: Friday, January 19, 2024 9:57:57 AM
Attachments: image001.png

The DLA says the fiscal impact is minimal or indeterminant, and would be absorbed with current resources.

Will keep you posted on other comments if any

Libby Guzzo
Director of Legislative Affairs
Office of the Attorney General
Tel.: (850) 245-0198

From: Moody, Jacqueline <Moody.Jacqueline@flsenate.gov>
Sent: Thursday, January 18, 2024 4:27 PM
To: Elizabeth Guzzo <Elizabeth.Guzzo@myfloridalegal.com>
Subject: RE: SB 1074 - Debt Relief Services

Elizabeth,

Thank you for the call earlier today. I am writing to follow up with on the fiscal impact for SB 1074 and whether DLA has any further comments about potentially amending the bill to provide for an exception under s. 817.803, F.S.

I look forward to hearing from you.

Jacqueline Moody
Senior Attorney
The Florida Senate
Committee on Banking and Insurance
(850) 487-5361

From: Elizabeth Guzzo <Elizabeth.Guzzo@myfloridalegal.com>
Sent: Thursday, January 18, 2024 11:45 AM
To: Moody, Jacqueline <Moody.Jacqueline@flsenate.gov>
Subject: Re: SB 1074 - Debt Relief Services

Yes! Can we do 1:30

Libby Guzzo

Director of Legislative Affairs

From: Moody, Jacqueline <Moody.Jacqueline@flsenate.gov>
Sent: Thursday, January 18, 2024 8:27:29 AM
To: Elizabeth Guzzo <Elizabeth.Guzzo@myfloridalegal.com>
Subject: RE: SB 1074 - Debt Relief Services

Great, thanks!

After 12:30 is fine but can it be before 2:00 pm? I have another call on this bill at 2:00 pm and should speak with her before that call.

From: Elizabeth Guzzo <Elizabeth.Guzzo@myfloridalegal.com>
Sent: Thursday, January 18, 2024 6:50 AM
To: Moody, Jacqueline <Moody.Jacqueline@flsenate.gov>
Subject: Re: SB 1074 - Debt Relief Services

Of course. Let me ask our consumer protection director when she can hop on, this is her information and I don't want to misspeak! It would be after 12:30 if that's okay!

Libby Guzzo
Director of Legislative Affairs

From: Moody, Jacqueline <Moody.Jacqueline@flsenate.gov>
Sent: Wednesday, January 17, 2024 10:10:42 PM
To: Elizabeth Guzzo <Elizabeth.Guzzo@myfloridalegal.com>
Subject: RE: SB 1074 - Debt Relief Services

Thanks, Elizabeth.

I appreciate this information. Please clarify what DLA expects the fiscal impact would be.

Also, I called earlier because I would like to have a quick call to discuss the information. I have a several questions that would be easier to discuss than communicate via email. Can we have a call with the analyst tomorrow?

From: Elizabeth Guzzo <Elizabeth.Guzzo@myfloridalegal.com>
Sent: Wednesday, January 17, 2024 11:05 AM
To: Moody, Jacqueline <Moody.Jacqueline@flsenate.gov>
Subject: RE: SB 1074 - Debt Relief Services

Please see below and let me know if there are any follow ups I can help with!

SB 1074 amends chapter 817, Part IV, Credit Counseling Services. Under section 817.806, violations

of the Credit Counseling Services provisions are unfair and deceptive trade practices and therefore subject to enforcement by the Department of Legal Affairs.

Currently section 817.801((4) defines debt management services as services provided for a fee to effect the "adjustment, compromise, or discharge of any unsecured indebtedness or services to receive from the debtor and disburse to the creditor any creditor any money or thing of value." Section 817.802 allows debt management services or credit counseling services to charge an initial set up fee of $50 and an annual consultation fee of $120 per year or the lesser of $15% of the amount paid monthly by the debtor or $75 per month.

SB 1074 amends the definition of "debt management services" in 817.801(4) to encompass both services to effect the compromise of an unsecured debt and to receive money from the debtor to disburse to the creditor. The bill also adds a definition of "debt relief services" that incorporates the definition of debt relief services in 16 CFR 310.2, the FTC telemarketing sales rule (TSR), and specifically carves out these services from the definition of debt management services in section 817.804(4). Debt relief services under the telemarketing sales rule means "any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector. " This TSR definition does not include the requirement that the provider receive from the debtor or disburse to the creditor money or thing of value.

The effect of this change would be to establish that entities that provide services to negotiate the settlement of a debt but do not collect and disburse money from the debtor to the creditor, would not be subject to the fees allowed and the limitations imposed in 817.802, F.S.. Instead the fees and other limitations on debt relief services would be determined by the provisions of the TSR. Among other provisions and restrictions, the TSR prohibits debt relief servicers from receiving any fee unless and until at least one debt has been settled and the debtor has made at least one payment under the negotiated agreement, and requires that the fee be no more than the same percentage of the negotiated debt that the negotiated debt bears to the entire debt balance or is a same percentage of the debt as the percentage of the amount saved is to the debt. These provisions of the TSR have been in effect since 2010.

It is likely that consumers would be subject to higher fees under SB 1074 but it is unknown to what extent or with what frequency. The current Florida law limits the fees that can be charged monthly but does not place a lifetime cap on fees or specifically prevent the continuous collection of fees for an unknown period.
We do not currently have any active investigations or enforcement actions that would be negatively impacted by the amendments proposed in SB 1074 and our enforcement authority would continue against credit counseling services and debt relief services under SB 1074. Pursuant to Section 501.203(3), a violation of an FTC rule may be enforced by the Department under Florida's Deceptive and Unfair Trade Practices Act, and, therefore, the Department would have authority under Florida law to enforce the TSR provisions relating to debt relief services. Furthermore, the TSR permits enforcement of the rule by an Attorney General of the state. 16 CFR 310.7.

Language changes:
Line 44 proposes changing " attorney's fees" to "attorney fees." This is not consistent with most references made in Florida Statutes—the reference used predominantly is "attorney fees."
Lines 50 to 54—this provision is unnecessary given the authority under 501.203 to enforce a violation of FTC rules as an unfair or deceptive trade practices.

Libby Guzzo
Director of Legislative Affairs
Office of the Attorney General
Tel.: (850) 245-0198

From: Moody, Jacqueline <Moody.Jacqueline@flsenate.gov>
Sent: Wednesday, January 17, 2024 10:42 AM
To: Elizabeth Guzzo <Elizabeth.Guzzo@myfloridalegal.com>
Subject: SB 1074 - Debt Relief Services

Elizabeth,

I am assigned as the analyst for SB 1074, Debt Relief Services. I am writing to request the DLA agency analysis for the bill. If you are unable to provide it by tomorrow morning, would you please let me know by then whether the DLA has any concerns about the language of the bill, and whether any fiscal impact is expected?

Thank you,

Jacqueline Moody
Senior Attorney
The Florida Senate
Committee on Banking and Insurance
(850) 487-5361

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, Chair
Appropriations Committee on Education
Education Pre-K 12
Fiscal Policy
Health Policy
Select Committee on Resiliency

SENATOR Alexis Calatayud
38th District

January 22, 2024

Honorable Senator Jim Boyd
Chair – Committee on Banking and Insurance
Honorable Chair Boyd,

I respectfully request that you allow SB 1074, relating to Debt Relief Services to be presented by Committee on Banking and Insurance member Senator Hutson, at today's meeting of the Banking and Insurance Committee. Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Sincerely,

Alexis M. Calatayud

_____

Senator Alexis M. Calatayud
Florida Senate, District 38

CC: James Knudson, Staff Director
Amaura Canty, Committee Administrative Assistant

The Florida Senate

APPEARANCE RECORD

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

01-22-24
Meeting Date

Banking & Insurance
Committee

1074
Bill Number or Topic

Amendment Barcode (if applicable)

Name Corey Boucher (BehalfBLuc) Phone 214-957-3698

Address 1125 E Campbell Rd. Suite 200 Email corey@yttg.com
Street

Richardson TX. 75081
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

01/22/24
Meeting Date

Banking & Insurance
Committee

1074
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kelly Mallette

Phone (850) 224-3427

Address 104 W Jefferson St.
Street

Email kelly@RLBookPA.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: Consumer Debt Relief Initiative

☐ 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

1-22-2024
Meeting Date

Banking & Insurance
Committee

[redacted] 1074
Bill Number or Topic

524590
Amendment Barcode (if applicable)

Name Shawn Council

Phone 903 455 1991

Address 2615 Lee St
Street

Email Scouncil@councilfirm.com

Greenville TX 75403
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

APPEARANCE RECORD

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

01/22/24
Meeting Date

Banking & Insurance
Committee

1074
Bill Number or Topic

524590
Amendment Barcode (if applicable)

Name Kelly Mallette

Phone (850) 224-3427

Address 104 W Jefferson Street
Street

Email kelly@rlbookpa.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: Consumer Debt Relief Initiative

☐ 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

01-22-24
Meeting Date

Banking & Insurance
Committee

1074
Bill Number or Topic

524590
Amendment Barcode (if applicable)

Name Corey Butcher DebtBlue

Phone 214-957-3698

Address 1125 E Campbell Rd. Suite 200
Street

Email Corey@4ffg.com

Richardson TX. 75081
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

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, Chair
Appropriations Committee on Education
Education Pre-K 12
Fiscal Policy
Health Policy
Select Committee on Resiliency

SENATOR Alexis Calatayud
38th District

January 5, 2024

Honorable Senator Jim Boyd
Chair - Committee Banking and Insurance
Honorable Chair Boyd,

I respectfully request **SB-1074 Debt Relief Services** be placed on the next committee agenda.

The bill specifies that provisions for enforcement of violations involving credit counseling services or debt management services do not apply to debt relief services; authorizing the Attorney General to bring certain actions for violations of specified federal regulations of debt relief services.

Sincerely,

Alexis M. Calatayud

_____

Senator Alexis M. Calatayud
Florida Senate, District 38

CC: James Knudson, Staff Director
Amaura Canty, Committee Administrative Assistant

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 1074
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/22/2024 1 Amendment 524590 adopted Calatayud					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
X		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 1078
INTRODUCER:	Senator DiCeglie
SUBJECT:	Public Records/Cellular Telephone Numbers Held by the Department of Financial Services
DATE:	January 22, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Favorable**
2.			GO	
3.			RC	

I. Summary:

SB 1078 provides that cellular telephone numbers voluntarily submitted to the Department of Financial Services (DFS) as part of the application process for purposes of two-factor authentication of login credentials are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Legislation filed this legislative session, SB 1098, proposes to amend s. 626.171(2), F.S., by requiring the DFS to allow licensure applicants to voluntarily submit cellular telephone numbers to the DFS during the application process for the purpose of two-factor secure login authentication. Such applications include insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.

The exemption is necessitated because it is believed that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system, which is otherwise designed to increase the ease of filing records, would be hindered.

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 takes effect upon becoming a law.

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]

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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).

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]

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.

[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.
[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.

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]
- 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]

Cellular Telephone Numbers Held by the Department of Financial Services

Legislation filed this legislative session, SB 1098, proposes to amend s. 626.171(2), F.S., by requiring the Department of Financial Services (DFS) to allow licensure applicants to voluntarily submit cellular telephone numbers to the DFS during the application process for the purpose of two-factor secure login authentication. Such applications include insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.

[20] Section 119.15(6)(b)1., F.S.
[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.

III. Effect of Proposed Changes:

Section 1 of the bill provides that cellular telephone numbers voluntarily submitted to the DFS as part of the application process for purposes of two-factor authentication of login credentials are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Legislation filed this legislative session, SB 1098, proposes to amend s. 626.171(2), F.S., by requiring the DFS to allow licensure applicants to voluntarily submit cellular telephone numbers to the DFS during the application process for the purpose of two-factor secure login authentication. Such applications include insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.

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 exempt. The public necessity statement notes:

> that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system, which is otherwise designed to increase the ease of filing records, would be hindered.

Section 3 of the bill provides for an effective date of upon becoming a law.

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. This bill 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. This 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 exempt to prevent the unintentional publication of information that may subject the filer to identity theft, financial harm, or other adverse impacts.

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.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 626.171.

IX. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator DiCeglie

18-00862A-24 20241078__

A bill to be entitled

An act relating to public records; amending s. 626.171, F.S.; providing an exemption from public records requirements for cellular telephone numbers relating to records of certain insurance-related licensures held by the Department of Financial Services; providing retroactive applicability; 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. Subsection (8) is added to section 626.171, Florida Statutes, to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(8)(a) Cellular telephone numbers collected by the department pursuant to subsection (2) are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to cellular telephone numbers held by the department before, on, or after the effective date of the exemption.

(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public

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

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necessity that all cellular telephone numbers collected by the Department of Financial Services pursuant to s. 626.171(2), Florida Statutes, be exempt from public records requirements. The Legislature finds that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system, which is otherwise designed to increase the ease of filing records, would be hindered. For these reasons, the Legislature finds that it is a public necessity to exempt such information from public records requirements.

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

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

The Florida Senate

APPEARANCE RECORD

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

01/22/24
Meeting Date

Banking + Insurance
Committee

SB 1078
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chase Mitchell

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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: Department of Financial Services

☐ 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 1078
FINAL ACTION: Favorable
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
X		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
9	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 1098
INTRODUCER:	Senate Committee on Banking and Insurance and Senator DiCeglie
SUBJECT:	Department of Financial Services
DATE:	January 23, 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 1098 revises provisions of multiple programs within the Department of Financial Services (DFS) to:

- Create the position of Federal Tax Liaison within DFS;
- Rename the Division of Investigative and Forensic Services to the Florida Division of Investigations and repeal the Division of Public Assistance Fraud (DPAF), moving its responsibilities to the renamed division;
- Revise provisions relating to the My Safe Florida Home Program;
- Eliminate quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund;
- Provide for workers' compensation reimbursement for emergency services and care provided when a maximum reimbursement allowance is not available;
- Require that contracts of $100,000 or more entered into by the Florida Self-Insurers Guaranty Association, the Florida Medical Malpractice Joint Underwriting Association, the Florida Insurance Guaranty Association, the Florida Life and Health Guaranty Association, the Florida Health Maintenance Organization Consumer Assistance Plan, and the Florida Workers' Compensation Guaranty Association, entered into after July 1, 2024, must first be approved by the DFS and that all such contracts must be competitively procured and be awarded to the most responsible and responsive vendor;
- Revise appointment authority and requirements for the Board of Funeral, Cemetery, and Consumer Services; provides that the Board members are subject to the code of ethics under part III of ch. 112, F.S.;

- Amend provisions regarding investigations and prosecutions within the regulatory authority of the DFS;
- Amend various notice requirements for administrative complaints, citations, and litigation under an insurance policy;
- Require surplus lines insurers to respond to the Division of Consumer Services within the DFS within 14 days after receipt of a written request from the Division for documents and information concerning a consumer complaint;
- Provide for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purposes of two-factor authentication of login credentials;
- Add "Registered Claims Adjuster (RCA) from American Insurance College" to the list of individuals exempted from the examination requirement to become an agent or adjuster;
- Allow the DFS to disclose confidential investigative information to the subject or the subject's representative in order to review the details of the investigation;
- Add the designation of "Chartered Customer Service Representative (CCSR) from American Insurance College" to the list of criteria to qualify as a customer representative;
- Require a licensed adjuster to identify themselves in any advertisements, solicitations or written documents based on the adjuster appointment type held;
- Provide that a general lines agent while licensed as a surplus lines agent may appoint licenses with a single surplus license agent appointment;
- Require that the renewal notice sent to the named insured containing changes in policy terms must be in bold type of not less than 14 points and included as a single page within the written notice;
- Revise provisions under the State Fire Marshal relating to standards on the use of fireworks, the Florida Fire Prevention Code, and uniform fire safety standards for mobile food dispensing vehicles and energy storage systems;
- Allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations;
- Revise financial requirements for warranty associations and exempt employees and agents of a municipal or county government from the licensing and appointment requirements;
- Revise provisions relating to bail bond agents and agencies; provide that bail bond agents are not required to be employed with a bail bond agency; and
- Revise provisions of the Florida Disposition of Unclaimed Property Act.

The bill provides the salary rate of 110,000 and appropriates $183,863 in recurring funds and $5,067 in nonrecurring funds from the Insurance Regulatory Trust Fund to support the Federal Tax Liaison position created by the bill.

The bill takes effect upon becoming a law.

II. Present Situation:

Powers and Duties of the Department of Financial Services

The organizational structure of the Department of Financial Services (DFS) is set forth in s. 20.121, F.S. The DFS is statutorily responsible for:

- Carrying out the state's accounting and auditing functions, including preparing the state's Comprehensive Annual Financial Report; monitoring state contracts; and making payment for state expenditures.
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use.
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities.
- Managing the state Treasury and directing safekeeping and the investment of all state funds.
- Managing the deferred compensation program for state employees.
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state.
- Regulating cemeteries and funeral homes.
- Licensing and oversight of insurance agents and agencies.
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner.
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services.
- Collecting and returning unclaimed property belonging to Florida residents.[1]

The DFS is composed of the following thirteen divisions:
- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and
- Workers' Compensation.[2]

Division of Investigative and Forensic Services

The Division of Investigative and Forensic Services (DIFS) functions as a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and is authorized to conduct investigations within or outside of Florida, as necessary. The DIFS includes the following office and bureaus:
- The Bureau of Forensic Services;
- The Bureau of Fire, Arson, and Explosives Investigations;

[1] Florida Department of Financial Services, *Statement of Agency Organization and Operation*, https://www.myfloridacfo.com/required/agency-org (last visited January 18, 2024).
[2] Florida Department of Financial Services, *Divisions and Offices* https://www.myfloridacfo.com/ (last visited January 18, 2024).

- The Office of Fiscal Integrity;
- The Bureau of Insurance Fraud; and
- The Bureau of Workers' Compensation Fraud.

DIFS encompasses all enforcement and forensic components within the DFS, investigating a wide range of fraudulent and criminal acts including:
- Insurance fraud investigations;
- Workers' compensation fraud investigations;
- Fire, arson, and explosives investigations;
- Theft/misuse of state funds; and
- Fire and explosives sample analysis.[3]

The DIFS investigates various types of insurance fraud including Personal Injury Protection fraud, workers' compensation fraud, vehicle fraud, application fraud, licensee fraud, homeowner's insurance fraud, and healthcare fraud.[4] The DIFS is directed by statute to investigate fraudulent insurance acts, violations of the Unfair Insurance Trade Practices Act, [5] false and fraudulent insurance claims,[6] and willful violations of the Florida Insurance Code and rules adopted pursuant to the Code.[7] The DIFS employs sworn law enforcement officers to investigate insurance fraud.

Investigations by the DIFS are conducted as provided in s. 626.989, F.S. These provisions include:
- Authority to administer oaths and affirmations, request the attendance of witnesses or proffering of matter, and collect evidence;
- Authority to request that an individual who refuses to comply with a request be ordered by the circuit court to provide the testimony or matter;
- Responsibility to report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction;
- The power to make arrests for criminal violations established as a result of investigations; and
- That its investigators be considered state law enforcement officers for all purposes and have the power to execute arrest warrants and search warrants; to serve subpoenas issued for the examination, investigation, and trial of all offenses.

Division of Public Assistance Fraud

The Division of Public Assistance Fraud (DPAF) is created pursuant to s. 20.121(2)(f), F.S. The DPAF is charged with functioning as a criminal justice agency and to conduct investigations of

[3] Department of Financial Services, Investigative and Forensic Services, *About the Division*, https://myfloridacfo.com/Division/DIFS/ (last visited January 18, 2024).
[4] *Id.*
[5] Section 626.9541, F.S.
[6] Section 817.234, F.S.
[7] Section 624.15, F.S.

public assistance fraud.[8] The DPAF safeguards against public assistance fraud and the impact of those crimes by enforcing relevant state laws. The DPAF partners with the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, and the Department of Education's Office of Early Learning to investigate fraud in programs administered by those departments.[9] On the federal level, the Division partners with the U.S. Department of Agriculture's Food and Nutrition Services, the Social Security Administration, and the Department of Health and Human Services.[10]

Special Risk Class

Chapter 121, F.S., contains provisions relating to the Florida Retirement System (FRS). Persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care are members of the Special Risk Class.[11] In establishing the Special Risk Class of membership within the FRS, the Legislature recognized that persons employed in certain categories of law enforcement, firefighting, and criminal detention positions must, as an essential function of their positions, perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity.[12] The Legislature further found that as persons in such positions age, they may not be able to continue performing their duties without posing a risk to the health and safety of themselves, the public and their coworkers.[13] Forensic professionals employed with the Division of State Fire Marshal in the forensic laboratory are included within the Special Risk Class.

My Safe Florida Home Program

In 2006, the Legislature created the My Safe Florida Home (MSFH) Program [14] within the DFS.[15] The original appropriation was $250 million for a period not to exceed three years with any unused appropriated funds reverting to the state on June 30, 2009. [16] The MSFH Program was created with the intent to provide trained and certified inspectors to perform inspections for owners of site-built, single-family, residential properties, and grants to eligible applicants.[17] 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.

In May 2022, during the 2022D Special Session (SB 2-D), the Legislature reestablished the MSFH Program within the DFS.[18] To implement the renewed MSFH Program, $150 million in

[8] Section 20.121(2)(f), F.S.
[9] https://www.myfloridacfo.com/Division/PAF/ (last visited January 18, 2024).
[10] *Id.*
[11] Section 121.0515(2), F.S.
[12] Section 121.0515(1), F.S.
[13] *Id.*
[14] *Id.*
[15] 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.).
[16] Chapter 2006-12 L.O.F.
[17] Section 215.5586, F.S.
[18] Section 3, ch. 2022-268, L.O.F. *See* CS/SB 2-D (2022 Special Session).

nonrecurring funds from the General Revenue Fund was appropriated to the DFS.[19] Another $102,065,000 was appropriated for the Program in 2023.[20]

During Special Session 2023-C, HB 1-C[21] 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.

State Risk Management and Safety Programs

Chapter 284, F.S., provides for state risk management and safety programs, including workers' compensation for state employees. In 1995, the Legislature created section 284.44, F.S., in order "to provide state agencies with an increased incentive to become actively involved in the prevention and management of workers' compensation claims involving state employees."[22] This section requires that each agency covered under the program must provide the initial salary indemnification costs for employees entitled to workers' compensation benefits from funds appropriated for salaries and benefits.[23]

The Division of Risk Management is required to prepare quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund for initial costs each quarter.[24] These reports also include information indicating the number of cases and any amounts waived by the Executive Office of the Governor.[25] The reports are provided to the Executive Office of the Governor and the chairs of the legislative appropriations committees.[26]

Workers' Compensation

Workers' Compensation Maximum Reimbursement Allowances

The Division of Workers' Compensation within the DFS provides regulatory oversight of Florida's workers' compensation system, which includes the enforcement of coverage requirements,[27] administration of the workers' compensation health care delivery system,[28] data collection,[29] and assisting injured workers, employers, insurers, and providers in fulfilling their

[19] Section 4, ch. 2022-268, L.O.F.
[20] Lines 2368A and 2368B, ch. 2023-239, L.O.F.
[21] Chapter 2023-349, L.O.F.
[22] Section 284.44(1), F.S.
[23] Section 284.44(2), F.S.
[24] Section 284.44(6), F.S.
[25] *Id.*
[26] *Id.*
[27] Section 440.107(3), F.S.
[28] Section 440.13, F.S.
[29] Section 440.185 and 440.593, F.S.

responsibilities under ch. 440, F.S.[30] Whether an employer is required to have workers' compensation insurance depends upon the employer's industry and the number of its employees. Employers may secure coverage by purchasing a workers' compensation insurance policy or qualifying as a self-insurer.[31] Individuals who elect an exemption are not considered "employees," for premium calculation purposes, and are not eligible to receive workers' compensation benefits if they suffer a workplace injury. Florida's workers' compensation law provides for medically necessary treatment and care of injured employees, including medications. The law provides reimbursement formulas and methodologies to compensate providers of health services, subject to maximum reimbursement allowances (MRAs).

A three-member panel (panel), consisting of the CFO or the CFO's designee and two Governor's appointees, sets the MRAs.[32] The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals. In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for treatment, services, and care;[33] the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care;[34] and the financial impact of the MRAs on healthcare providers and facilities; Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.[35]

The panel develops four different reimbursement manuals to determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,[36] while reimbursement for surgical procedures is limited to 140 percent of Medicare.[37] The hospital manual sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,[38] while other outpatient services are limited to 75 percent of usual and customary charges.[39] Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.[40] The ambulatory surgical centers manual limits reimbursement to 60 percent of usual and customary charge as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a $4.18 dispensing fee.[41] Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an $8.00 dispensing fee.[42] Fees may not exceed the schedules adopted under ch. 440, F.S., and DFS rule.[43]

[30] Section 440.191, F.S.
[31] Section 440.38, F.S.
[32] Section 440.13(12)(a), F.S.
[33] Section 440.13(12)(d)1., F.S.
[34] Section 440.13(12)(d)2., F.S.
[35] Section 440.13(12)(d)3., F.S.
[36] Section 440.13(12)(b)4., F.S.
[37] Section 440.13(12)(b)5., F.S.
[38] Section 440.13(12)(b)3., F.S.
[39] Section 440.13(12)(a), F.S.
[40] Section 440.13(12)(a), F.S.
[41] Section 440.13(12)(c), F.S.
[42] *Id.*
[43] Section 440.13(13)(b), F.S. The DFS also has broad rulemaking authority under s. 440.591, F.S.

Florida Self-Insurers Guaranty Association

An employer may be eligible to self-insure for their workers' compensation coverage.[44] Such an employer must furnish proof to the Florida Self-Insurers Guaranty Association (FSIGA) that the employer has the financial strength necessary to ensure timely payment of all current and future claims.[45] The FSIGA is a nonprofit corporation established pursuant to s. 440.385, F.S., and monitors the financial strength of self-insured entities for the DFS and makes recommendations as to the qualifications to self-insure.[46] All self-insurers other than governmental entities and public utilities are required to be members of the Association.[47]

Funeral, Cemetery, and Consumer Services

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act (Act), provides for the regulation of funeral and cemetery services.[48] The Act authorizes the Board of Funeral, Cemetery, and Consumer Services (Board) within the DFS to regulate cemeteries, columbaria, cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.[49]

Section 20.121(4), F.S., creates the Board within the Division of Funeral, Cemetery, and Consumer Services of the DFS. The Board acts as the licensing and rulemaking authority for certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements.[50]
The Board has broad authority over licensure and examination of applicants for various licenses including:

- Authority to determine any and all criteria for licensure;
- Authority to specify who may conduct practical examination;
- Authority to specify the content of examinations for licensure, both written and practical, and the relative weighting of areas examined, and grading criteria, and determination of what constitutes a passing grade;
- Authority to strike any examination question determined before or after an examination to be inappropriate for any reason;
- Authority to specify which national examinations or parts thereof shall or shall not be required or accepted regarding Florida licensure;
- Authority to determine time limits and substantive requirements regarding reexamination of applicants who fail any portion of a licensing examination; and

[44] Section 440.38(1)(b), F.S.
[45] *Id.*
[46] *Id.*
[47] Section 440.385(1)(a), F.S.
[48] *See* Section 497.001, F.S.
[49] Sections 497.101 and 497.103, F.S.
[50] *See* s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

- Authority to determine substantive requirements and conditions relating to apprenticeships and internships, and temporary licensure pending examination.[51]

The Board must have 10 members; one member must be the State Health Officer, or his or her designee, and the remaining nine members must be nominated by the Chief Financial Officer (CFO), appointed by the Governor, and confirmed by the Senate.[52] The composition of the Board must be as follows:

- The State Health Officer;
- Two funeral directors who are:
  - Licensed under part III of ch. 497, F.S., as funeral directors, and
  - Associated with a funeral establishment;
- One funeral director who is:
  - Licensed under part III of ch. 497, F.S.,
  - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S., and
  - Operates an incinerator facility that is approved under ch. 403, F.S., and licensed under part IV of ch. 497, F.S.;
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
  - Are residents of Florida;
  - Have never been licensed funeral directors or embalmers;
  - Are not connected with a cemetery or licensed cemetery company;
  - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
  - At least one of which is at least 60 years of age; and
  - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.

Two or more members may not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.[53] Board members are appointed for four-year terms, except for the State Health Officer, who serves so long as he or she holds the office.[54]

Service of Process

Service of an administrative complaint in a disciplinary matter, whether against a licensee or an unlicensed person or entity, may be in person by the DFS staff or a person authorized to make service of process under the Florida Rules of Civil Procedure.[55] If the complaint is against a licensee, than service "may in the alternative be made by certified mail, return receipt requested,

[51] Section 497.103(1)(a)-(g), F.S.
[52] Section 497.101(1), F.S.
[53] Section 497.101(2), F.S.
[54] Section 497.101(3), F.S.
[55] Section 497.153(4)(a), F.S.

to the last known address of record provided by the licensee to the department."[56] Service of a citation may be made in person or by certified mail at the subject's last known address.[57]

Presuit Notice to Initiate Litigation under an Insurance Policy

As a condition precedent to bringing a bad faith cause of action under s. 624.155, F.S., the insured must have provided the insurer and the DFS at least 60 days written notice of the alleged violation.[58] The 60-day window contemplated under s. 624.155, F.S., provides insurers with a final opportunity to comply with their claim-handling obligations when a good-faith decision by the insurer would indicate that contractual benefits are owed.[59] Notice to the authorized insurer must be sent by the DFS to the e-mail address designated by the insurer under s. 624.422, F.S. (which relates to service of process).[60] The civil remedy notice must specify the following information:

- The statutory provision, including the specific language of the statute, which the authorized insurer allegedly violated;
- The facts and circumstance giving rise to the violation;
- The name of any individual involved in the violation;
- A reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third-party claimant, she or he shall not be required to reference the specific policy language if the authorized insurer has not provided a copy of the policy to the third party claimant pursuant to written request; and
- A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized under s. 624.155, F.S.[61]

Outside of the "bad faith" litigation context, a property insurance claimant must provide the DFS with written notice, on a form provided by the DFS, of intent to initiate litigation against an insurer at least 10 business days before filing suit, but may not be given before the insurer has made a determination of coverage under s. 627.70131.[62] The notice must detail the alleged acts or omissions of the insurer giving rise to the suit. If the insurer denied coverage, the notice must include an estimate of damages, if known. If the insurer did not deny coverage, notice must include a presuit settlement demand that itemizes damages, attorney fees, costs, and the disputed amount. The notice may include supporting documents. The notice and supporting documents are not admissible as evidence in any proceeding.[63] A court must dismiss without prejudice any claimant's suit if the claimant has not complied with the requirement to provide 10 business days' notice of intent to initiate litigation.[64]

[56] *Id.*
[57] Section 497.155(1)(e), F.S.
[58] Section 624.155(3), F.S.
[59] *See Talat Enterprises, Inc., v. Aetna Cas. and Sur. Co*, 753 So.2d 1278, 1284 (Fla. 2000).
[60] *Id.*
[61] Section 624.155(3)(b)(1)-(5), F.S.
[62] Section 627.70152(3)(a), F.S.
[63] Section 627.70152(6)(a), F.S.
[64] Section 627.70152(5), F.S.

The insurer must respond in writing within 10 business days after receiving the notice of intent to initiate litigation.[65] If the insurer denied coverage, the insurer must either accept coverage, deny coverage, or assert the right to re-inspect the property within 14 business days.[66] If the notice alleges the insurer did an act other than denying coverage, the insurer must respond by making a settlement offer or requiring the claimant to participate in an appraisal or another method of alternative dispute resolution (ADR).[67] If appraisal or ADR is not concluded within 90 days after the 10-day notice of intent to initiate litigation, the claimant may immediately file suit without providing the insurer additional notice.[68]

DFS - Division of Consumer Services

The Division of Consumer Services (Division) provides education, information, and assistance to consumers for all products or services regulated by the DFS or the Financial Services Commission (Commission).[69] The Division's duties specifically include:

- Receiving consumer questions and complaints;
- Educating the public about insurance-related topics;
- Providing mediation to resolve disputes between a consumer and insurance company; and
- Serving as a conduit for referrals for further legal action by the DFS.[70]

Section 624.307(10)(b), F.S., permits the Division to impose an administrative penalty on a person who holds a license or certificate of authority from the DFS if that person fails to respond to the Division's request for information within 20 days. A licensed individual must produce any requested documents not subject to attorney-client or work product privilege.

Insurance Field Representatives and Operations

Chapter 626, F.S., governs the regulation of insurance field representatives, navigators, insurance administrators, unauthorized insurers and surplus lines, viatical settlements, structured settlements, and operations.[71] The powers and duties of the CFO and the DFS in part I of ch. 626, F.S., apply only with respect to insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.[72] Further, the DFS has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons engaged in actions for which a license issued by the DFS is required.[73] The powers and duties of the

[65] Section 627.70152(4), F.S.
[66] Section 627.70152(4)(a), F.S.
[67] Section 627.70152(4)(b), F.S.
[68] *Id.*
[69] DFS, *Department of Financial Services Long Range Program Plan: Fiscal Years 2023-24 through 2027-28*, 15 (Oct. 17, 2022), *available at* http://floridafiscalportal.state.fl.us/Document (last visited January 18, 2024). *See also*, DFS, *Consumer Guides*, https://www.myfloridacfo.com (last visited January 18, 2024).
[70] Section 624.307(10)(a), F.S.
[71] This includes licensing and other requirements (part I), general lines agents (part II), life insurance agents (part III), health insurance agents (part IV), title insurance agents (part V), insurance adjusters (part VI), insurance administrators (part VII), and viatical settlements (part X).
[72] Section 626.016(1), F.S.
[73] Section 626.016(3), F.S.

Financial Service Commission and the Office of Insurance Regulation (OIR) [74] specified in part I apply only with respect to service companies, insurance administrators, and viatical settlement providers and contracts.[75] The OIR has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons who engage in actions for which a license or certificate of authority issued by the OIR is required.[76] However, s. 626.016(4), F.S., provides that it is not intended to limit the authority of the DFS and the Division of Investigative and Forensic Services within the DFS, as authorized in s. 626.989, F.S.

The Division of Insurance Agent and Agency Services licenses and appoints individuals and entities authorized to transact insurance in Florida as provided in s. 626.016, F.S. Further, the Division receives and reviews applications for insurance licenses and oversees the examination, licensing, and continuing education of licensees. The Division also conducts investigations of alleged violations of the Florida Insurance Code and refers suspected criminal violations of the Florida Insurance Code to the Division's Bureau of Insurance Fraud within the DFS or other law enforcement agencies as appropriate.[77]

Insurance Adjuster Licensure Examination

An adjuster is an individual employed by an insurer to evaluate losses and settle policyholder claims.[78] An adjuster may be licensed as either an "all-lines adjuster" or a "public adjuster."[79] An all-lines adjuster "is a person who, for money, commission, or any other thing of value, directly or indirectly undertakes on behalf of a public adjuster or an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect settlement of such claim, loss, or damage."[80] Subject to certain exceptions, a public adjuster is someone that is paid by an insured to prepare and file a claim against his or her insurer.[81]

Among other requirements, an applicant must pass an examination to obtain an adjuster's license; however, the examination requirement is waived if the applicant has attained certain professional designations that document their successful completion of professional education coursework. An examination is not required for all-lines adjuster applicants that obtains certain specified professional designations.[82] The DFS must approve the curriculum, which must include comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard the DFS testing for the all-lines adjuster license.[83]

[74] Pursuant to s. 20.121(3), F.S., the Office of Insurance Regulation is an office within the Financial Services Commission (FSC). The FSC is composed of the Governor, the Attorney General, the CFO, and the Commissioner of Agriculture. The FSC members serve as the agency head for purposes of rulemaking under ss. 120.536-120.565, F.S.
[75] Section 626.016(2), F.S.
[76] Section 626.016(3), F.S.
[77] Sections 624.307, 624.317, and 624.321, F.S.
[78] Insurance Information Institute. *I.I.I. Glossary* (defining "adjuster"), https://www.iii.org/glossary/A (last visited January 18, 2024).
[79] Section 626.864, F.S.
[80] Sections 626.015 and 626.8548, F.S.
[81] Section 626.854(1), F.S.
[82] Section 626.221, F.S.
[83] Section 626.221(2)(j), F.S.

Public Adjusters

A public adjuster is any person, except a duly licensed attorney-at-law, 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-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.[84] 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, an insured, or a third-party claimant.[85]

Unauthorized Insurers and Surplus Lines

A general lines agent while licensed and appointed as a surplus lines agent may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate that agent.[86] A managing general agent while licensed and appointed as a surplus lines agent may accept and place such surplus lines business as is originated by a Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate that agent.[87] Such general lines agent may not knowingly misrepresent to the surplus lines agent any material fact involved in any such insurance or in the eligibility thereof for placement with a surplus lines insurer.[88]

Florida Medical Malpractice Joint Underwriting Association

The Florida Medical Malpractice Joint Underwriting Association (FMMJUA) is an insurance risk apportionment plan created by law for the purpose of assuring the availability of medical liability (malpractice) insurance to Florida health care providers (physicians, surgeons, dentists, nurses, physician partnerships or corporations, hospitals, medical facilities and other health care providers).[89] The FMMJUA provides liability insurance for those medical providers who are unable to obtain coverage from the private market.

The FMMJUA is administered through its Board of Governors (Board). The Board is comprised of representatives from the Florida Medical Association, Florida Hospital Association, The Florida Bar, Florida Dental Association, and the insurance industry. Subject to the final approval of the OIR, the Board approves insurance rates, rate classifications, policy forms, and otherwise sets the FMMJUA policy under the framework of the FMMJUA Plan of Operation. Operational and administrative functions are provided by a general manager and staff located in Tallahassee. The general manager is responsible for implementing policy and conducting the daily activities of the FMMJUA.

[84] Section 626.854(1), F.S.
[85] *Id.*
[86] Section 626.929(1), F.S.
[87] Section 626.929(2), F.S.
[88] Section 626.929(3), F.S.
[89] Section 627.351, F.S. *See also* www.fmmjua.com (last visited January 18, 2024).

The Insurance Contract

An insurer may change the terms of a policy at the renewal of that policy.[90] If the terms are going to be changed, the insurer must give the named insured advance written notice summarizing the changes.[91] The notice may be enclosed along with the notice of renewal premium or sent separately within the required timeframe.[92] The insurer must provide a sample copy of the notice to the insured's insurance agent before or at the same time that notice is provided to the insured. The notice must be entitled "Notice of Change in Policy Terms."[93]

Each renewal policy that includes the addition of optional coverage that increases the premium may not use the Notice of Change in Policy Terms to add the optional coverage unless the policyholder approves the addition of the optional coverage.[94] Receipt of the premium payment for the renewal policy is deemed to be acceptance of the new policy terms by the insured.[95] If the insurer fails to provide the required notice, the original policy terms remain in effect until the next renewal and the proper service of the notice, or until the effective date of replacement coverage obtained by the named insured, whichever occurs first.[96]

Guaranty Associations

A guaranty association generally is a nonprofit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company.

Florida Insurance Guaranty Association

Section 631.55, F.S., provides for the creation of the Florida Insurance Guaranty Association, Inc. (FIGA). When a property and casualty insurance company becomes insolvent, FIGA is required by law to assume the claims of the insurer and pay the claims of the company's policyholders.[97] All insurers licensed to sell property and casualty insurance in the state are required to participate in the FIGA as a condition of transacting business in Florida. The FIGA operates under a board of directors as a nonprofit corporation. The Board consists of five to nine members appointed by the DFS to serve four-year terms.[98]

Florida Life and Health Insurance Guaranty Association

Section 631.715, F.S., provides for the creation of the Florida Life and Health Insurance Guaranty Association (FLHIGA). All insurers licensed to sell direct life insurance policies, health insurance policies, annuity contracts, and supplemental contracts with or without life

[90] Section 627.43141(2), F.S.
[91] *Id.*
[92] *Id.*
[93] *Id.*
[94] Section 627.43141(3), F.S.
[95] Section 627.43141(5), F.S.
[96] Section 627.43141(6), F.S.
[97] Section 631.57, F.S.
[98] Section 631.56(1), F.S.

contingencies in the state are required to participate in the FLHIGA as a condition of transacting business in Florida. The FLHIGA operates under a board of directors as a nonprofit corporation. The Board consists of nine to eleven members appointed by member insurers.[99]

Florida Health Maintenance Organization Consumer Assistance Plan

Section 631.815, F.S., provides for the creation of the Florida Health Maintenance Organization Consumer Assistance Plan (FHMOCAP). All health maintenance organizations possessing a valid certificate of authority in the state are required to participate in the FHMOCAP as a condition of transacting business in Florida. The FHMOCAP operates under a board of directors as a nonprofit corporation. The Board consists of five to nine members appointed by the DFS to serve four-year terms.[100]

Florida Workers' Compensation Insurance Guaranty Association

Section 631.911, F.S., provides the creation of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated (FWCIGA). All insurers authorized to provide workers' compensation insurance in the state are required to participate in the FWCIGA as a condition of transacting business in Florida. The FWCIGA operates under a board of directors as a nonprofit corporation. The Board consists of eleven members appointed to serve four-year terms.[101]

State Fire Marshal

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.104, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal within the DFS. This law provides "it is the intent of the Legislature that the State Fire Marshal shall have the responsibility to minimize the loss of life and property in this state due to fire."[102] Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College.

The State Fire Marshal is charged with adopting the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code, but is prohibited from adopting a building, mechanical, or plumbing code.[103] Criminal penalties for violation of the Florida Fire Prevention Code, any order or rule of the State Fire Marshal, or any order to cease and desist or to correct conditions, are set forth in s. 633.124, F.S.

Uniform Firesafety Standards

The DFS is required to establish uniform firesafety standards that apply to:

[99] Section 631.716(1), F.S.
[100] Section 631.816(1), F.S.
[101] Section 631.912(1), F.S.
[102] Section 633.104(2), F.S.
[103] Section 633.202(2), F.S.

- All new, existing, and proposed state-owned and state-leased buildings.
- All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, and self-service gasoline stations.[104]

The uniform firesafety standards must be reasonably prudent with respect to protecting life, safety, and property and which take into consideration the characteristics of the people utilizing the subject buildings and structures and other hazards associated with the subject buildings and structures throughout the state.[105] A local authority may not require more stringent uniform firesafety standards with respect to buildings or structures subject to such standards except in limited circumstances.[106]

Motor Vehicle Service Agreement Companies

A person may not transact, administer, market, or attempt any of these activities with respect to a service agreement[107] business in Florida without a license.[108] To qualify for and maintain a license, a service agreement company ("company") must comply with applicable Florida laws (including the Florida Insurance Code), rules and charter powers, and comply with specified requirements, including, in part:

- Being a solvent corporation;
- Furnishing the OIR with evidence that the management of the company is competent and trustworthy, and can successfully and lawfully manage its affairs;
- Making a deposit required under s. 634.052, F.S.;
- Maintaining the requires reserves and the required ratio of liquid assets to the required reserves;
- Having and maintaining net assets of $500,000, which all of such assets maintained in the United States; and
- Establishing and maintaining an unearned premium reserve that meets certain requirements, including:

[104] Section 633.206(1), F.S.
[105] Section 633.206(2)(a), F.S.
[106] Section 633.206(2)(b), F.S.
[107] Section 634.011(8), F.S., defines "motor vehicle service agreement" or "service agreement" as a contract or agreement indemnifying the service agreement holder for the motor vehicle listed on the service agreement and arising out of the ownership, operation, and use of the motor vehicle against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended; however, nothing in this part shall prohibit or affect the giving, free of charge, of the usual performance guarantees by manufacturers or dealers in connection with the sale of motor vehicles. Transactions exempt under s. 624.125, F.S., are expressly excluded from this definition and are exempt from the provisions of this part. The term "motor vehicle service agreement" includes any contract or agreement that provides: (a) for the coverage or protection and which is issued or provided in conjunction with an addictive produce applied to the motor vehicle that is the subject of such contract or agreement; (b) For payment of vehicle protection expenses as defined in s. 634.011(8)(b)1.a., F.S.
[108] Section 634.031(1), F.S.

  - The unearned premium reserve consists of unencumbered assets equal to a minimum of 50 percent of the unearned gross written premium of each service agreement and must amortize this reserve pro rata over the duration of the service agreement;
  - A company utilizing the 50-percent reserve must not allow its ratio of gross written premium to net assets to exceed 10 to 1; and
  - The company must deposit with the DFS securities of the type eligible for deposit by insurers under s. 625.52, F.S., equal to 15 percent of the unearned premium reserve; or
- Is not required to establish and maintain an unearned premium reserve if the company secures and maintains contractual liability insurance in accordance with the following:
  - Coverage of 100 percent of the claim exposure is obtained from an insurer approved by the OIR which meets certain criteria;
  - The contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds if the company does not meet its contractual obligations;
  - If the issuer of the contractual liability policy is fulfilling the service agreements covered by contractual liability policy and the holder cancel the service agreement, the issuer must make a full refund of the unearned premium to the consumer in certain circumstances;
  - The policy's cancellation, termination, or nonrenewal is subject to 90 days written notice by the insurer to the OIR; and
  - The company must provide the OIR with the claims statistics.[109]

A policy issued in compliance with this provision may either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.[110]

Home Warranty Associations

Chapter 634, F.S., provides for the regulation of warranty associations. There are three parts to the chapter; Part I for motor vehicle service agreement companies; Part II for home warranty associations; and Part III for service warranty associations.]

A home warranty association is any business other than an authorized insurer that issues home warranties.[111] A home warranty includes any agreement whereby a business indemnifies the warranty holder against the cost of repair or replacement of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance.[112] It does not include or prohibit the giving, at no charge, of usual performance guarantees by either the builder of a home or the manufacturer or seller.[113] The regulation is administered by the OIR.[114]

[109] Section 634.041, F.S.
[110] Section 634.041(8)(b)6., F.S.
[111] Section 634.301(3), F.S.
[112] Section 634.301(2), F.S.
[113] *Id.*
[114] Section 634.302, F.S.

Bail Bonds

A bail bond is a guarantee by a third-party that a defendant in a criminal case will appear in court at all scheduled proceedings. A bail bond agent posts a surety bond to secure the defendant's release from custody; the defendant provides money or other collateral to secure the bail bond and forfeits the premium (10 percent of the amount of bail set by the court) if he or she fails to appear in court or comply with other conditions of the bond. Bail bond agents must be licensed by the DFS and appointed by insurance carriers to execute bail bonds. If a defendant fails to appear in court, the bail bond agent may apprehend and detain the defendant until the defendant is surrendered to the authorities.[115]

Bail bond agents may execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency at a separate location from the supervising bail bond agent, managing general agent, or insurer that employs the bail bond agent.[116]

Licensure as a Bail Bond Agent

All applicants for bail bond licenses must submit fingerprints for a national criminal background check and pay an application fee. Bail bond agents may not have been convicted of a felony, must be age 18 or older, and must be eligible to work in the United States. A bail bond agent must be appointed by a licensed insurer and the insurer must report the appointment to the DFS. A bail bond agent may not charge a premium other than the rate that has been approved by the OIR, and must retain records related to any bail bonds the agent has executed or countersigned for at least three years after the liability of the surety has been terminated. Additionally, bail bond agents must register with the sheriff and the clerk of the circuit court in the county where the bail bond agent resides. Bail bond agents may not solicit clients at a jail, prison, or courthouse, and may not pay fees for referrals from any person working in the law enforcement community.[117]

Ownership of a Bail Bond Agency

The owner of a bail bond agency must be a licensed and appointed bail bond agent.[118] The owner or operator of a bail bond agency must designate a primary bail bond agent who is responsible for the overall operation and management of a bail bond agency location and file the name and license number of the primary bail bond agent and the address of the bail bond agency with the DFS. A primary bail bond agent may supervise only one location, is responsible for hiring employees and may not employ or contract with any person who has been found guilty of a felony.[119]

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[115] Sections 648.24 and 624.26, F.S. *Also see* Department of Financial Services, Division of Consumer Services, *Bail Bonds Overview*, https://www.myfloridacfo.com/bail-bonds-overview (last visited January 18, 2024).
[116] Section 648.355, F.S.
[117] Sections 648.355, 648.33, 648.34, 648.35, 648.36, 648.382, 648.42, and 648.44, F.S.
[118] Section 648.285, F.S.
[119] Sections 648.25(6) and 648.387, F.S.

Continuing Education

Bail bond agents must complete at least 14 hours of continuing education every two years.[120] Schools that offer continuing education must be approved and certified by the DFS, and must offer a minimum of three classroom-instruction continuing education classes per calendar year. Continuing education classes must consist of at least two hours of approved coursework and be taught by a supervising instructor who is approved by the DFS.[121]

Florida Disposition of Unclaimed Property Act

As part of the DFS' statutory responsibilities, the DFS is to collect and return unclaimed property belonging to Florida residents. Chapter 717, F.S., is entitled the Florida Disposition of Unclaimed Property Act, over which the DFS is responsible to administer. Unclaimed property is any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Unclaimed property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.[122] Until claimed, unclaimed money is deposited into the state school fund to be used for public education.

Pursuant to s. 717.124, F.S. a claimant representative must be a Florida-licensed attorney, a licensed Florida-certified public accountant (CPA), or a private investigator licensed under ch. 493, F.S. A claimant representative must register with the DFS on a form designated by the DFS and provide certain documentation (including tax identification number, identification, electronic funds transfer information, business address, and employees and agents) and credentials as to their status as an attorney, CPA, or private investigator.[123] In order to move forward in obtaining unclaimed property on a potential client's behalf, the representative must first obtain that client's authorization.

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"[124] 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.[125]

Once the 5-year period elapses, the holder may file a petition with the DFS and request that the DFS accept custody of the property.[126] 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

[120] Section 648.385, F.S.
[121] Section 648.386, F.S.
[122] Sections 717.104-717.116, F.S.
[123] Section 717.1400, F.S.
[124] 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.

[125] Section 717.102(1), F.S.
[126] Section 717.117(5), F.S.

delivers the property to the DFS has done so in good faith, he or she is relieved of any liability to manage the property.[127]

III. Effect of Proposed Changes:

Federal Tax Liaison

Section 1 creates s. 17.69, F.S., to create the position of Federal Tax Liaison within the DFS. The Federal Tax Liaison, to be appointed by the CFO, reports directly to the CFO but is not otherwise under the authority of the DFS or of any employee of the DFS. The purpose of the position is to assist the taxpayers of this state:

- Assist taxpayers by answering taxpayer questions;
- Direct taxpayers to the proper departments or offices within the Internal Revenue Service (IRS) in order to hasten resolution of taxpayer issues;
- Prepare recommendations for the IRS of any actions that will help resolve problems encountered by taxpayers;
- Provide information about the policies, practices, and procedures that the Internal Revenue Service uses to ensure compliance with the tax laws; and
- With the consent of the taxpayer, request records from the IRS to assist the liaison in responding to taxpayer inquiries.

Division of Investigative and Forensic Services

Section 2 amends s. 20.121, F.S., to:

- Rename the Division of Investigative and Forensic Services to the Florida Division of Investigations and delete provisions relating to the duties of the Division and the bureaus and offices in the Division;
- Abolish the Division of Public Assistance Fraud. The programs and responsibilities within this Division will be moved under the Florida Division of Investigations (which is the Division of Investigative and Forensic Services as renamed by the bill).

Special Risk Class

Section 3 amends s. 121.0515, F.S., to delete reference to employees of the Division of State Fire Marshal and replaces the reference to employees of the Division of Investigative and Forensic Services, since that is the accurate reference to where the forensic employees work.

My Safe Florida Home Program

Section 4 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:

[127] Section 717.1201(5), F.S.

  - The original application was denied or withdrawn;
  - The program's eligibility requirements or applicant's qualifications have changed since the original application; and
  - The applicant reasonably believes that the home will be eligible under the new requirements or qualifications;
- Provides that 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 inspection application and must attach documents demonstrating that the applicant meets the requirements for an inspection;
- 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 and obtain any required permits for the mitigation project. A homeowners must finalize construction and request a final inspection, or request an extension for an additional 6 months, within 1 year after grant approval. If the homeowner fails to comply, the application is to be deemed abandoned and the grant money reverts back to the DFS.

The bill revises the criteria for eligible improvements to:
- Include within improvements to "opening protection," windows, skylights, exterior doors, and garage doors;
- 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 revises existing language that encourages contractors to distribute to its policyholders the MSFH Program brochure which provides information on the benefits to homeowners of residential hurricane damage mitigation. The MSFH Program provides most education information electronically, thereby negating the need for brochures. In addition, the language directs the DFS to work with Citizens Property Insurance Corporation to educate its policy holders about the program.

State Risk Management and Safety Programs

Section 5 amends s. 284.44, F.S., to repeal the provision requiring the Division of Risk Management to prepare quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund for initial costs each quarter.

Workers' Compensation

Section 6 amends s. 440.13, F.S., to provide for reimbursement for emergency services and care provided when a maximum reimbursement allowance is not available. In such a case, the maximum allowance must be at 75 percent of the hospital's charge, unless there is a contract, in which case the contract governs reimbursement.

Section 7 amends s. 440.385, F.S., relating to the Florida Self-Insurers Guaranty Association, to require that, after July 1, 2024, all contracts of $100,000 or more entered into by the association after July 1, 2024, must first be approved by the DFS. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Funeral, Cemetery, and Consumer Services

Section 8 amends s. 497.101, F.S., relating to the Board of Funeral, Cemetery, and Consumer Services. The bill provides that:

- The CFO is to appoint Board members, rather than the Governor, and removes Senate confirmation from such appointments;
- One of the funeral director members of the Board no longer must own or operate an approved cinerator facility;
- Board members may be reappointed but may not serve for more than 8 consecutive years.
- Members of the Board are subject to the code of ethics under part III of ch. 112, F.S.;
- A Board member may not vote on any measure that would inure to his or her special private gain or loss;
- A Board member may not knowingly accept any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the DFS or Board, which is under consideration for a contract, or is licensed by the DFS;
- All meetings of the Board are subject to the open meeting requirements of s. 286.011, and all books and records of the Board are open to the public for reasonable inspection except as otherwise provided by law; and
- Except for emergency meetings, the DFS must give notice of any Board meeting by publication on the DFS website at least 7 days before the meeting. The DFS must publish its agenda at least 7 days before the meeting. The agenda must contain the items to be considered in order of presentation. After the agenda has been made available, a change may be made only for good cause.

Section 9 amends s. 497.153, F.S., relating to disciplinary procedures and penalties to provide that if service of an administrative complaint on a licensee by certified mail cannot be obtained at the last address provided to the DFS by the licensee, then service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided to the DFS by the licensee in accordance with s. 497.146, F.S.

Section 10 amends s. 497.155, F.S., relating to disciplinary citations and minor violations to provide that if service of a citation on a subject by certified mail cannot be obtained at the last address provided to the DFS by the subject, then service may be made by e-mail, delivery receipt

required, sent to the most recent e-mail address provided to the DFS by the subject in accordance with s. 497.146, F.S.

Presuit Notice to Initiate Litigation under an Insurance Policy

Section 11 amends s. 624.155, F.S., to allow the DFS to provide the required civil remedy notice of violation to the authorized insurer at an address designated by the insurer, rather than requiring it to be sent to the email address designated by the insurer under s. 624.422, F.S.

Section 21 amends s. 627.70152, F.S., to allow the DFS to provide the required notice of intent to initiate litigation against an insurer to the insurer at an address designated by the insurer, rather than requiring it to be sent to the email address designated by the insurer under s. 624.422, F.S.

DFS - Division of Consumer Services

Section 12 amends s. 624.307, F.S., to require eligible surplus lines insurers to respond, in writing or electronically, to the Division of Consumer Services within the DFS within 14 days after receipt of a written request from the Division for documents and information concerning a consumer complaint.

This section of the bill also requires authorized insurers and eligible surplus lines insurers to file e-mail addresses with the DFS to which requests for response to consumer complaints may be directed. The insurer must designate a contact person for escalated complaint issues and must provide the name, e-mail address, and telephone number of the contact person.

Insurance Field Representatives and Operations

Section 13 amends s. 626.171, F.S., to require the DFS to provide for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purposes of two-factor authentication of login credentials only. A separate bill, SB 1078, proposes to exempt these phone numbers from public records requirements.

Section 14 amends s. 626.221, F.S., to add "Registered Claims Adjuster (RCA) from American Insurance College" to the list of individuals exempted from the examination requirement to become an agent or adjuster.

Section 15 amends s. 626.601, F.S., to allow the DFS to disclose confidential investigative information to the subject or the subject's representative in order to review the details of the investigation.

Section 16 amends s. 626.7351, F.S., to add the designation of "Chartered Customer Service Representative (CCSR) from American Insurance College" to the list of criteria to qualify as a customer representative.

Public Adjusters

Section 17 amends s. 626.878, F.S., to require a licensed adjuster to identify themselves in any advertisements, solicitations or written documents based on the adjuster appointment type held.

This section also provides that an adjuster who has had his or her licensed revoked or suspended may not participate in any part of an insurance claim or in the insurance claim adjusting process.

Unauthorized Insurers and Surplus Lines

Section 18 amends s. 626.929, F.S., to provide that a general lines agent while licensed as a surplus lines agent may appoint licenses with a single surplus license agent appointment pursuant to s. 624.501, F.S. Such an appointed agent may only originate surplus lines business and accept surplus lines business from other originating Florida-licensed general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer

Florida Medical Malpractice Joint Underwriting Association

Section 19 amends s. 627.351, F.S., relating to the Florida Medical Malpractice Joint Underwriting Association, to require that, after July 1, 2024, all contracts of $100,000 or more entered into by the association must first be approved by the DFS. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

The Insurance Contract

Section 20 amends s. 627.43141, F.S., to require that the renewal notice sent to the named insured containing changes in policy terms must be in bold type of not less than 14 points and included as a single page, or consecutive page, as necessary, within the written notice.

Florida Insurance Guaranty Association

Section 22 amends s. 631.59, F.S., relating to the Florida Insurance Guaranty Association Guaranty Association, to require that all contracts of $100,000 or more entered into by the association after July 1, 2024, must first be approved by the DFS. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Florida Life and Health Insurance Guaranty Association

Section 23 amends s. 631.722, F.S., relating to the Florida Life and Health Guaranty Association to require that all contracts of $100,000 or more entered into by the association after July 1, 2024, must first be approved by the DFS. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Florida Health Maintenance Organization Consumer Assistance Plan

Section 24 amends s. 631.821, F.S., relating to the Florida Health Maintenance Organization Consumer Assistance Plan (Plan), to require that all contracts of $100,000 or more entered into by the Plan after July 1, 2024, must first be approved by the DFS. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Florida Workers' Compensation Insurance Guaranty Association

Section 25 amends s. 631.921, F.S., relating to the Florida Workers' Compensation Guaranty Association, to require that all contracts of $100,000 or more entered into by the association after July 1, 2024, must first be approved by the DFS. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

State Fire Marshal

Section 26 amends s. 633.124, F.S., to adopt the National Fire Protection Association, Inc., Standard 1126, 2021 Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 27 amends s. 633.202, F.S., relating to the Florida Fire Prevention Code to provide that the State Fire Marshal may not adopt an accessibility code, since accessibility is provided for under the Florida Building Code ADA accessibility code.

Section 28 amends s. 633.206, F.S., to require the DFS to establish uniform fire safety standards for mobile food dispensing vehicles and energy storage systems.

Motor Vehicle Service Agreement Companies

Section 29 amends s. 634.041, F.S., to allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Section 30 amends s. 634.081, F.S., to allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Home Warranty Associations

Section 31 amends s. 634.3077, F.S., to provide that a home service warranty association is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation if the association complies with the following:

- The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the OIR with the following:
    - A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an

independent certified public accountant in accordance with generally accepted accounting principles, that clearly demonstrate the net worth of the association or its parent corporation to be $100 million, and a quarterly written certification to the OIR that the association or its parent corporation continues to maintain the net worth required under this paragraph.
    - The association's or its parent corporation's Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may subject the association to suspension or revocation of its license.

- If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following must be met:
    - The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the OIR. A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the OIR written notice at least 90 days before the effective date of the cancellation, termination, or modification and the OIR approves the request in writing. Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the OIR compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section. If the association or parent corporation does not demonstrate to the satisfaction of the OIR compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.
    - The association must maintain at all times net assets of at least $750,000.

Section 32 amends s. 634.317, F.S., to exempt employees and agents of a municipal or county government from the licensing and appointment requirements set forth in section 634.317, F.S.

Bail Bonds

Section 33 amends s. 648.25, F.S., to provide the following definitions:
- "Referring bail bond agent" is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company.
- "Transfer bond" means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody, and

who is appointed to represent the same surety company issuing the appearance bond as the referring bail bond agent.

Section 34 amends s. 648.26, F.S., to provide that the papers, documents, reports, or any other records of an investigation (related to the regulation of bail bonds) by the DFS that are made confidential and exempt from the public records law until such investigation is completed or ceases to be active, are not confidential and exempt once the DFS or the OIR files a formal administrative complaint, emergency order, or consent order against the individual or entity.

The bill also provides that the confidential and exempt investigative records may be disclosed to the subject or the subject's representative in order to review the details of the investigation.

Section 35 amends s. 648.30, F.S., to provide that bail bond agents are not required to be employed with a bail bond agency.

Section 36 s. 648.355, F.S., to remove the requirement of the submission of a full face photograph with a limited surety's or bail bond agent's application for license.

Section 37 amends s. 648.43, F.S., to require that the license number, in addition to the name and address, of the referring bail bond agent be included on a transfer bond.

Florida Disposition of Unclaimed Property Act

Section 38 amends s. 717.101, F.S., to provide or revise definitions for the following terms: "audit," "audit agent," "banking organization," "business association," "claimant's representative," "domicile," "due diligence," "electronic," "financial organization," "holder," "intangible property," "owner," "person," "record," "unclaimed property purchase agreement," "unclaimed property recovery agreement" and "virtual currency." The bill repeals the definition of "ultimate equitable owner".

Section 39 amends s. 717.102, F.S., to provide that a presumption that property is unclaimed is rebutted by an apparent owner's expression of interest in the property. An owner's expression of interest in property includes:

- A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;
- An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;
- Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, with respect to an account, underlying security, or interest in a business association;
- Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

- A deposit into or withdrawal from an account at a financial organization, excluding an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest, which does not constitute an expression of interest; or
- Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.

The bill provides that a deceased owner is incapable of expressing an interest in property.

Section 40 amends s. 717.106, F.S., to update a cross-reference.

Section 41 creates s. 717.1065, F.S., to provide that:
- Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity.
- A holder may not deduct from the amount of any virtual currency subject to this section any charges imposed by reason of the failure to present the instrument for encashment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose those charges and does not regularly reverse or otherwise cancel those charges with respect to the instrument.

Section 42 amends s. 717.1101, F.S., to provide that stock or other equity interest in a business association is presumed unclaimed on the date of the earliest of the following:
- Three years after the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property;
- Three years after the date of the death of the owner, as evidenced by:
  - Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;
  - Receipt by the holder of a copy of the death certificate of the owner;
  - Confirmation by the holder of the owner's death through other means; or
  - Other evidence from which the holder may reasonably conclude that the owner is deceased; or
- One year after the date on which the holder receives notice under subparagraph 2. if the notice is received 2 years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of 2 years or less.

Section 43 amends s. 717.112, F.S., to provide that intangible property held in a fiduciary capacity for the benefit of another person is presumed unclaimed unless the owner has within 5 years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated "<u>in writing</u>" concerning the property, or

otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

Section 44 amends s. 717.117, F.S., effective January 1, 2025, to require holders to report owner or account information for unclaimed property valued at $10 or more to the DFS, rather than the current threshold of $50, and that such reporting be made electronically.

The bill provides that written notice to the apparent owner must:

- Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before (insert date that is 30 days after the date of notice)."
- Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice.
- State that the property will be turned over to the custody of the DFS if no response is received within 30 days after the date of the notice.
- State that any property that is not legal tender of the United States may be sold or liquidated by the DFS.
- State that after the property is turned over to the DFS, an apparent owner seeking return of the property may file a claim with the DFS.
- State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the DFS.

Section 45 amends s. 717.119 F.S., to provide that virtual currency reported on the annual report must be remitted to the DFS with the report. The holder must liquidate the virtual currency within 30 days before the filing of the report and remit the proceeds to the DFS. Upon delivery of the proceeds, the holder is relieved of all liability for any losses or damages resulting by the delivery of the virtual currency proceeds.

The bill provides that a holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder. Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligations under the chapter. A holder is not prohibited from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible for the complete, accurate, and timely reporting of the property.

Section 46 amends s. 717.1201, F.S., to provide that a holder's substantial compliance with s. 717.117(4), F.S., and good faith payment or delivery of property terminates any legal relationship between the holder and the owner and releases and discharges the holder from any and all liability to the owner regardless of whether such property is in fact abandoned property. If the holder delivers property to the DFS in good faith and thereafter any other person or state claims the property, the DFS must defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

The bill provides that a payment or delivery of property is made in good faith if:

- The payment or delivery was made in conjunction with an accurate and acceptable report.
- The payment or delivery was made in a reasonable attempt to comply with this chapter.
- The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter.
- There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

If it appears to the DFS that, because of mistake of fact or error, a person has delivered to the DFS pursuant any property not required to be so delivered, the DFS may, within 5 years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with the chapter.

Section 47 amends s. 717.123, F.S., to increases the amount retained in the Unclaimed Property Trust Fund from $15 to $65 million. The DFS reports:

> Because of the very high amounts of funds disbursed to claimants by the Division of Unclaimed Property, the department desires to increase the current, very low retention amount in the Unclaimed Property Trust Fund from which claims are paid and the Unclaimed Property program operates. The division averages $35 million per month in claims payments, paid from an account limited to $15 million at any given time. Amounts above the retention amount are transferred to the State School Trust Fund (SSTF). Once the department transfers funds, the Department of Education does not send them back. The division relies on large loans throughout the fiscal year to pay claims and operate. In the spring-time months when new annual remittances are made by holders of unclaimed property to the division (new accounts received and associated funds), those loans taken throughout the year must be repaid before the end of the fiscal year, and prior to any additional funds being transferred to the SSTF. In the end, the SSTF will receive the same net amount, regardless of the retention limit in the UPTF. It is only a matter of when and how much the SSTF receives at any given time during the course of the fiscal year. The legislature temporarily inserted in the current year appropriations act, an increased retention limit of $65 million. The department desires and needs to make that permanent. It is also the current year's manner in which the two agencies are sharing this cooperative practice (already the practice this year).[128]

Section 48 amends s. 717.1242, F.S., to include devisee, heir, personal representative, or other interested person of an estate among those persons who must file a claim with the DFS for any interest in unclaimed property. If such person seeks administration of the estate, of which unclaimed property makes up 50 percent or more of the assets, the DFS must be considered an interested party and provided with notice of any such proceeding as provided in the Florida Probate Code and the Florida Probate Rules.

[128] Department of Financial Services, *Agency Bill Analysis – SB 1098 (December 28, 2023) (on file with the Senate Committee on Banking and Insurance).*

Section 49 amends s. 717.1243, F.S., to increase the threshold for small estate accounts to be accompanied with a signed affidavit from $10,000 to $20,000.

Section 50 amends s. 717.1245, F.S., to provide that a successful plaintiff for a writ of garnishment upon unclaimed property delivered to the DFS must still file a claim for the subject unclaimed property.

Section 51 amends s. 717.129, F.S., to provide that the ten-year period of limitation on the DFS to enforce the provisions of the chapter is tolled by the earlier of the DFS's or audit agent's delivery of a notice that a holder is subject to an audit or examination or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Section 52 amends s. 717.1301, F.S., to revise the powers of the DFS in regards to enforcement of the chapter. The powers include the authority to:

- Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim.
- Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to the chapter to determine whether the person complied with the chapter.
- Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with the chapter.
- Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for examination or audit and that the testimony specified in paragraph (c) be provided.
- Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action.
- Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

If a person is subject to reporting property under the chapter, the DFS may require the person to file a verified report that:

- States whether the person is holding property reportable under the chapter;
- Describes the property not previously reported, the property about which the DFS has inquired, or the property that is in dispute as to whether it is reportable under the chapter; and
- States the amount or value of the property.

The DFS may authorize a compliance review of a report for a specified reporting year that is limited to the contents of the report filed and all supporting documents. If the review results in a finding of a deficiency in unclaimed property due and payable, the DFS must notify the holder in writing of the amount of deficiency within 1 year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the DFS may seek to enforce the assessment under subsection (1). The DFS is not required to conduct a review under this section before initiating an audit.

The bill provides that in a contract providing for the location or collection of unclaimed property, the DFS may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The DFS must annually report to the Chief Financial Officer the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

The bill provides that if any material obtained during an investigation or examination contains a holder's financial or proprietary information, such information may not be disclosed or made public after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Any such material may be considered a trade secret and exempt from the public records law.

Section 53 amends s. 717.1311, F.S., to increases the duration holders must retain records of unclaimed property from 5 to 10 years.

Section 54 amends s. 717.1322, F.S., to remove the requirement that a person must be registered with the DFS in order to purchase unclaimed property.

Section 55 amends s. 717.1333, F.S., to make conforming changes due to the revised definition of "audit agent."

Section 56 amends s. 717.134, F.S., to provide that the penalties only apply to willful violations of the chapter.

Section 57 amends s. 717.135, F.S., to remove the requirement that a purchaser must act through a representative registered with the DFS. The bill provides that an Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must contain the name, address, e-mail address, and phone number of the purchaser if a representative is not involved

Removes the threshold of $2,000 or less for agreements that may be signed electronically, allowing all such agreements to be signed electronically.

Provides that this section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy trustee appointed to represent a debtor's estate in a bankruptcy proceeding in accordance with the United States Bankruptcy Code.

Section 58 amends s. 717.1400, F.S., to makes conforming changes for allowing anyone to purchase unclaimed property.

Sections 59 and 60 amend ss. 197.582 and 717.1382, F.S., respectively to conform cross-references necessitated by changes made in the bill.

Division of Law Revision

Section 61 directs the Division of Law Revision to prepare a reviser's bill for the 2025 Regular Session to change the term "Division of Investigative and Forensic Services" wherever the term appears in the Florida Statutes to "Division of Criminal Investigations."

Appropriation

Section 62 establishes, for the 2024-2025 fiscal year, one full-time equivalent position with associated salary rate of $110,000 and appropriates the sums of $183,863 in recurring funds and $5,067 in nonrecurring funds from the Insurance Regulatory Trust Fund to the DFS to support the full-time equivalent position of federal tax liaison created by the bill.

Effective Date

Section 63 provides that the bill is effective upon becoming a law.

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:

Emergency services and care providers under the workers' compensation system, when a maximum reimbursement allowance is not available, will be reimbursed at 75 percent of

the hospital's charge, unless there is a contract, in which case the contract governs reimbursement.

C. Government Sector Impact:

The bill establishes, for the 2024-2025 fiscal year, one full-time equivalent position with associated salary rate of $110,000 and appropriates the sums of $183,863 in recurring funds and $5,067 in nonrecurring funds from the Insurance Regulatory Trust Fund to the DFS to support the full-time equivalent position of federal tax liaison created by the bill.

The bill makes numerous changes that will require systems and process changes in the Department of Financial Services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 121.0515, 215.5586, 284.44, 440.13, 440.385, 497.101, 497.153, 497.155, 624.155, 624.307, 626.171, 626.221, 626.601, 626.7351, 626.878, 626.929, 627.351, 627.43141, 627.70152, 631.59, 631.722, 631.821, 631.921, 633.124, 633.202, 633.206, 634.041, 634.081, 634.3077, 634.317, 648.25, 648.26, 648.30, 648.355, 648.43, 717.101, 717.102, 717.106, 717.1101, 717.112, 717.117, 717.119, 717.1201, 717.123, 717.1242, 717.1243, 717.1245, 717.129, 717.1301, 717.1311, 717.1322, 717.1333, 717.134, 717.135, 717.1400, 197.582, 717.1382, and 766.314.

This bill creates the following section of the Florida Statutes: 17.69 and 717.1065.

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 22, 2024:
The committee substitute:

- Creates the position of Federal Tax Liaison within the Department of Financial Services and appropriates $183,863 in recurring funds and $5,067 in non-recurring funds to support the position;
- Replaces incorrect references to "association" and "board" on lines 804-813 of the bill, and inserts "department;"
- Revises the Notice of Change provision on lines 1100 & 1101 of the bill to allow the Notice to run on consecutive pages, if necessary;

- Removes Section 22 from the bill that required each insurer subject to the Florida Insurance Guaranty Association requirements to prepare a data transfer plan;
- Restores current law for the definition of "intangible property" on lines 1747-1750 of the bill;
- Revises the provision on lines 1925 – 1932 of the bill to add the term "virtual currency" in place of the term "instrument;"
- Provides that the changes in Section 44 of the bill become effective on January 1, 2025;
- Replaces the word "abandoned" on line 2205 of the bill with the word "unclaimed;" and
- Restores current law on lines 2331-2344 of the bill.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
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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. Section 17.69, Florida Statutes, is created to read:

17.69 Federal tax liaison.—

(1) The federal tax liaison position is created within the department. The purpose of the position is to assist the taxpayers of this state as provided in subsection (3).

(2) The Chief Financial Officer shall appoint the federal tax liaison. The federal tax liaison reports directly to the Chief Financial Officer but is not otherwise under the authority of the department or of any employee of the department.

(3) The federal tax liaison may do all of the following:

(a) Assist taxpayers by answering taxpayer questions.

(b) Direct taxpayers to the proper departments or offices within the Internal Revenue Service in order to hasten resolution of taxpayer issues.

(c) Prepare recommendations for the Internal Revenue Service of any actions that will help resolve problems encountered by taxpayers.

(d) Provide information about the policies, practices, and procedures that the Internal Revenue Service uses to ensure compliance with the tax laws.

(e) With the consent of the taxpayer, request records from the Internal Revenue Service to assist the liaison in responding to taxpayer inquiries.

Section 2. Present paragraphs (g) through (n) of subsection (2) of section 20.121, Florida Statutes, are redesignated as paragraphs (f) through (m), respectively, and paragraph (e) and present paragraph (f) of that subsection are amended, to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and office:

(e) The Division of Criminal Investigations ~~Investigative and Forensic Services~~, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division

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may initiate and conduct investigations into any matter under the jurisdiction of the Chief Financial Officer and Fire Marshal within or outside of this state as it deems necessary. ~~If, during an investigation, the division has reason to believe that any criminal law of this state or the United States has or may have been violated, it shall refer any records tending to show such violation to state law enforcement and, if applicable, federal prosecutorial agencies and shall provide investigative assistance to those agencies as appropriate. The division shall include the following bureaus and office:~~

~~1. The Bureau of Forensic Services;~~

~~2. The Bureau of Fire, Arson, and Explosives Investigations;~~

~~3. The Office of Fiscal Integrity, which shall have a separate budget;~~

~~4. The Bureau of Insurance Fraud; and~~

~~5. The Bureau of Workers' Compensation Fraud.~~

~~(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of the state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of the state has or may have been violated, it shall refer any records supporting such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.~~

Section 3. Paragraph (f) of subsection (2) and paragraph (h) of subsection (3) of section 121.0515, Florida Statutes, are

amended to read:

121.0515 Special Risk Class.—

(2) MEMBERSHIP.—

(f) Effective July 1, 2024 ~~2008~~, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of Criminal Investigations ~~State Fire Marshal~~ in the forensic laboratory and meet the special criteria set forth in paragraph (3)(h).

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(h) Effective July 1, 2024 ~~2008~~, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of Criminal Investigations ~~State Fire Marshal~~ in the forensic laboratory in one of the following classes:

1. Forensic technologist (class code 8459);

2. Crime laboratory technician (class code 8461);

3. Crime laboratory analyst (class code 8463);

4. Senior crime laboratory analyst (class code 8464);

5. Crime laboratory analyst supervisor (class code 8466);

6. Forensic chief (class code 9602); or

7. Forensic services quality manager (class code 9603);

Section 4. Section 215.5586, Florida Statutes, 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 inspections for eligible homes ~~owners of site-built, single-family, residential properties~~ and grants to fund hurricane mitigation projects for those homes ~~eligible 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 that may include the following:

(1) HURRICANE MITIGATION INSPECTIONS.—

(a) To be eligible for a hurricane mitigation inspection, all of the following criteria must be met:

1. The home must be a single-family, detached residential property or a townhouse, as defined in s. 481.203.

2. The home must be site-built and owner-occupied.

3. The homeowner must have been granted a homestead exemption on the home under chapter 196.

(b) 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

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inspection application and must have attached documents demonstrating that the applicant meets the requirements of paragraph (a). An applicant may submit a new inspection application if all of the following criteria are met:

1. The original application has already been denied or withdrawn.

2. The program's eligibility requirements or applicant's qualifications have changed since the original application date.

3. The applicant reasonably believes that the home will be eligible under the new requirements or qualifications.

(c) An applicant who meets the requirements of paragraph (a) 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).

(d) ~~(a)~~ Licensed inspectors are to provide home inspections of eligible homes ~~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 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) ~~(e)~~ 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

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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 must ~~shall~~ be used ~~to encourage single-family, site-built, owner-occupied, residential property owners~~ to retrofit eligible homes based on the recommendations made in a hurricane mitigation inspection ~~their properties~~ to make the homes ~~them~~ less vulnerable to hurricane damage.

(a) ~~For a homeowner~~ To be eligible for a grant, all of the following criteria must be met:

1. The home must be a single-family, detached residential property or a townhouse, as defined in s. 481.203.

2. The home must be site-built and owner-occupied.

3.~~1.~~ The homeowner must have been granted a homestead exemption on the home under chapter 196.

4.~~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.

5.~~3.~~ The home must undergo an acceptable hurricane mitigation inspection as provided in subsection (1).

6.~~4.~~ The building permit application for initial construction of the home must have been made before January 1, 2008.

7.~~5.~~ The homeowner must agree to make his or her home available for inspection once a mitigation project is completed.

(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 a single grant application and must have attached documents demonstrating that the applicant meets the requirements of ~~this~~ paragraph (a).

2. An applicant may submit a new grant application if all of the following criteria are met:

a. The original application has already been denied or withdrawn.

b. The program's eligibility requirements or applicant's qualifications have changed since the original application date.

c. The applicant reasonably believes that the home will be eligible under the new requirements or qualifications.

(c)~~(b)~~ All grants must be matched on the basis of $1

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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.

(d) ~~(c)~~ The program shall require ~~create a process in which contractors agree to participate and homeowners select from a list of participating contractors. All~~ mitigation work to ~~must~~ be based upon the securing of all required local permits and inspections, and the work must be performed by properly licensed contractors. The program shall approve only a homeowner grant application that includes an acknowledged statement from the homeowner containing the name and state license number of the contractor the homeowner intends to use for the mitigation work. The program must electronically verify that the contractor's state license number is accurate and up to date before grant approval ~~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~~.

~~(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to 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.~~

(e) When recommended by a hurricane mitigation inspection, grants for eligible homes may be used for the following improvements:

1. Opening protection, including windows, skylights,

exterior doors, and garage doors.

2. Exterior doors, including garage doors.

3. Reinforcing roof-to-wall connections.

4. Improving the strength of roof-deck attachments.

5. Secondary Water Resistance (SWR) barrier for roof.

(f) When recommended by a hurricane mitigation inspection, grants for townhouses, as defined in s. 481.203, may only be used for opening protection.

(g) The department may require that improvements be made to all openings, including exterior doors and garage doors, 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 (e) or this paragraph.

~~(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 (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.~~

(h) Low-income homeowners, as defined in s. 420.0004(11), who otherwise meet the 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.

(i) The department shall develop a process that ensures the most efficient means to collect and verify grant applications to determine eligibility 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.

(j) Homeowners must finalize construction and request a final inspection, or request an extension for an additional 6 months, within 1 year after grant approval. If the homeowners fail to comply, the application shall be deemed abandoned and the grant money reverts back to the department.

(3) REQUESTS FOR INFORMATION.—The department may request that the applicant provide additional information. An application shall be deemed withdrawn by the applicant if the department does not receive a response to its request for additional information within 60 days after the notification of any apparent errors or omissions.

(4) ~~(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 is encouraged to distribute the brochure to policyholders of the corporation. ~~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.

(5) ~~(4)~~ FUNDING.—The department may seek out and leverage local, state, federal, or private funds to enhance the financial resources of the program.

(6) ~~(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.

(7) ~~(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.

(8) ~~(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 mitigation ~~initial~~ inspections and mitigation projects ~~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.

(9)~~(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.

(10)~~(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 5. Subsection (6) of section 284.44, Florida Statutes, is amended to read:

284.44 Salary indemnification costs of state agencies.—

~~(6) The Division of Risk Management shall prepare quarterly reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees indicating for each state agency the total amount of salary indemnification benefits paid to claimants and the total amount of reimbursements from state agencies to the State Risk Management Trust Fund for initial costs for the previous quarter. These reports shall also include information for each state agency indicating the number of cases and amounts of initial salary indemnification costs for which reimbursement requirements were waived by the Executive Office of the Governor pursuant to this section.~~

Section 6. Paragraph (a) of subsection (12) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous

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vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by hospitals and ambulatory surgical centers. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in observation status, which shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for hospital inpatient care, hospital outpatient care, and ambulatory surgical centers. A hospital or an ambulatory surgical center shall be reimbursed either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule. Reimbursement for emergency services and care, as defined in s. 395.002, without a maximum reimbursement allowance must be at 75 percent of the hospital's charge, unless there is a contract, in which case the contract governs reimbursement.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report

regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

Section 7. Present subsections (9) through (13) of section 440.385, Florida Statutes, are redesignated as subsections (10) through (14), respectively, and a new subsection (9) is added to that section, to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(9) CONTRACTS AND PURCHASES.—

(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation

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process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 8. Present subsection (7) of section 497.101, Florida Statutes, is redesignated as subsection (11), subsections (1) through (4) are amended, and a new subsection (7) and subsections (8), (9), and (10) are added to that section, to read:

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, 9 of whom shall be appointed by ~~the Governor from nominations made by~~ the Chief Financial Officer ~~and confirmed by the Senate~~. ~~The Chief Financial Officer shall nominate one to three persons for each of the nine vacancies on the board, and the Governor shall fill each vacancy on the board by appointing one of the persons nominated by the Chief~~

~~Financial Officer to fill that vacancy. If the Governor objects to each of the nominations for a vacancy, she or he shall inform the Chief Financial Officer in writing. Upon notification of an objection by the Governor, the Chief Financial Officer shall submit one to three additional nominations for that vacancy until the vacancy is filled.~~ One member must be the State Health Officer or her or his designee.

(2) Two members of the board must be funeral directors licensed under part III of this chapter who are associated with a funeral establishment. One member of the board must be a funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter which has a valid preneed license issued pursuant to this chapter ~~and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter~~. Two members of the board must be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two members of the board must be consumers who are residents of this state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members must be at least 60 years of age. One member of the board must be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or an embalmer; is not a principal or an employee of any licensee licensed under this chapter; and does

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not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board must be a principal of a monument establishment licensed under this chapter as a monument builder. One member must be the State Health Officer or her or his designee. There may not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years and may be reappointed; however, a member may not serve for more than 8 consecutive years.~~, and~~ The State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Chief Financial Officer ~~Governor~~.

(4) The Chief Financial Officer ~~Governor may suspend and the Senate~~ may remove any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the Chief Financial Officer ~~Governor or Senate, as applicable,~~ to evidence a lack of fitness to sit on the board. A board member shall be deemed to have resigned her or his board membership, and that position shall be deemed vacant, upon the failure of the member to attend three consecutive meetings of the board or at least half of the meetings of the board during any 12-month period, unless the Chief Financial Officer determines that there was good and adequate justification for the absences and that such absences are not likely to continue. Any vacancy so created shall be filled as provided in subsection (1).

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(7) Members of the board are subject to the code of ethics under part III of chapter 112. For purposes of applying part III of chapter 112 to activities of the members of the board, those persons are considered public officers, and the department is considered their agency. A board member may not vote on any measure that would inure to his or her special private gain or loss and, in accordance with s. 112.3143(2), may not vote on any measure that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of his or her relative or business associate. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(8) In accordance with ss. 112.3148 and 112.3149, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the department or the board, which is under consideration for a contract, or which is licensed by the department.

(9) A board member who fails to comply with subsection (7) or subsection (8) is subject to the penalties provided under ss. 112.317 and 112.3173.

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(10)(a) All meetings of the board are subject to the requirements of s. 286.011, and all books and records of the board are open to the public for reasonable inspection except as otherwise provided by s. 497.172 or other applicable law.

(b) Except for emergency meetings, the department shall give notice of any board meeting by publication on the department's website at least 7 days before the meeting. The department shall publish a meeting agenda on its website at least 7 days before the meeting. The agenda must contain the items to be considered, in order of presentation. After the agenda has been made available, a change may be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change must be at the earliest practicable time.

Section 9. Paragraph (a) of subsection (4) of section 497.153, Florida Statutes, is amended to read:

497.153 Disciplinary procedures and penalties.—

(4) ACTION AFTER PROBABLE CAUSE FOUND.—

(a) Service of an administrative complaint may be in person by department staff or any person authorized to make service of process under the Florida Rules of Civil Procedure. Service upon a licensee may in the alternative be made by certified mail, return receipt requested, to the last known address of record provided by the licensee to the department. If service by certified mail cannot be made at the last address provided by the licensee to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the licensee to the department in accordance with s. 497.146.

Section 10. Paragraph (e) of subsection (1) of section 497.155, Florida Statutes, is amended to read:

497.155 Disciplinary citations and minor violations.—

(1) CITATIONS.—

(e) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address in accordance with s. 497.146. If service by certified mail cannot be made at the last address provided by the subject to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the subject to the department in accordance with s. 497.146.

Section 11. Paragraph (a) of subsection (3) of section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.—

(3)(a) As a condition precedent to bringing an action under this section, the department and the authorized insurer must have been given 60 days' written notice of the violation. Notice to the authorized insurer must be provided by the department to the e-mail address designated by the insurer ~~under s. 624.422~~.

Section 12. Present paragraphs (c) and (d) of subsection (10) of section 624.307, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and paragraph (b) of that subsection is amended, to read:

624.307 General powers; duties.—

(10)

(b) Any person licensed or issued a certificate of authority or made an eligible surplus lines insurer by the

department or the office shall respond, in writing or electronically, to the division within 14 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to $5,000 per violation upon any entity licensed by the department or the office and up to $1,000 per violation by any individual licensed by the department or the office.

(c) Each insurer issued a certificate of authority or made an eligible surplus lines insurer shall file with the department an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). Such insurer shall also designate a contact person for escalated complaint issues and shall provide the name, e-mail address, and telephone number of such person. A licensee of the department, including an agency or a firm, may elect to designate an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). If a licensee, including an agency or a firm, elects not to designate an e-mail address, the department shall direct requests for response to consumer complaints to the e-mail of record for the licensee in the department’s licensing system. An insurer or a licensee, including an agency or a firm, may change designated contact information at any time by submitting the new information to the department using the method designated by rule by the

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department.

Section 13. Subsection (2) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(2) In the application, the applicant shall set forth:

(a) His or her full name, age, social security number, residence address, business address, mailing address, contact telephone numbers, including a business telephone number, and e-mail address.

(b) A statement indicating the method the applicant used or is using to meet any required prelicensing education, knowledge, experience, or instructional requirements for the type of license applied for.

(c) Whether he or she has been refused or has voluntarily surrendered or has had suspended or revoked a license to solicit insurance by the department or by the supervising officials of any state.

(d) Whether any insurer or any managing general agent claims the applicant is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim, and the applicant’s defense thereto, if any.

(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) The applicant’s gender (male or female).

(g) The applicant’s native language.

(h) The highest level of education achieved by the applicant.

(i) The applicant's race or ethnicity (African American, white, American Indian, Asian, Hispanic, or other).

(j) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

However, the application must contain a statement that an applicant is not required to disclose his or her race or ethnicity, gender, or native language, that he or she will not be penalized for not doing so, and that the department will use this information exclusively for research and statistical purposes and to improve the quality and fairness of the examinations. The department shall make provisions for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purpose of two-factor authentication of secure login credentials only.

Section 14. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from

the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; Registered Claims Adjuster (RCA) from American Insurance College; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 15. Subsection (6) of section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(6) The complaint and any information obtained pursuant to the investigation by the department or office are confidential and are exempt from s. 119.07 unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. This subsection does not prevent the department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the individual or entity or its representative, or to share such information with any law

enforcement agency or other regulatory body.

Section 16. Subsection (3) of section 626.7351, Florida Statutes, is amended to read:

626.7351 Qualifications for customer representative's license.—The department may ~~shall~~ not grant or issue a license as customer representative to any individual found by it to be untrustworthy or incompetent, or who does not meet each of the following qualifications:

(3) Within 4 years preceding the date that the application for license was filed with the department, the applicant has earned the designation of Accredited Advisor in Insurance (AAI), Associate in General Insurance (AINS), or Accredited Customer Service Representative (ACSR) from the Insurance Institute of America; the designation of Certified Insurance Counselor (CIC) from the Society of Certified Insurance Service Counselors; the designation of Certified Professional Service Representative (CPSR) from the National Foundation for CPSR; the designation of Certified Insurance Service Representative (CISR) from the Society of Certified Insurance Service Representatives; the designation of Certified Insurance Representative (CIR) from All-Lines Training; the designation of Chartered Customer Service Representative (CCSR) from American Insurance College; the designation of Professional Customer Service Representative (PCSR) from the Professional Career Institute; the designation of Insurance Customer Service Representative (ICSR) from Statewide Insurance Associates LLC; the designation of Registered Customer Service Representative (RCSR) from a regionally accredited postsecondary institution in the state whose curriculum is approved by the department and includes

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comprehensive analysis of basic property and casualty lines of insurance and testing which demonstrates mastery of the subject; or a degree from an accredited institution of higher learning approved by the department when the degree includes a minimum of 9 credit hours of insurance instruction, including specific instruction in the areas of property, casualty, and inland marine insurance. The department shall adopt rules establishing standards for the approval of curriculum.

Section 17. Section 626.878, Florida Statutes, is amended to read:

626.878 Rules; code of ethics.—

(1) An adjuster shall subscribe to the code of ethics specified in the rules of the department. The rules shall implement the provisions of this part and specify the terms and conditions of contracts, including a right to cancel, and require practices necessary to ensure fair dealing, prohibit conflicts of interest, and ensure preservation of the rights of the claimant to participate in the adjustment of claims.

(2) A person licensed as an adjuster must identify himself or herself in any advertisement, solicitation, or written document based on the adjuster appointment type held.

(3) An adjuster who has had his or her licensed revoked or suspended may not participate in any part of an insurance claim or in the insurance claims adjusting process, including estimating, completing, filing, negotiating, appraising, mediating, umpiring, or effecting settlement of a claim for loss or damage covered under an insurance contract. A person who provides these services while the person’s license is revoked or suspended acts as an unlicensed adjuster.

Section 18. Subsection (1) of section 626.929, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

626.929 Origination, acceptance, placement of surplus lines business.—

(1) A licensed and appointed general lines agent while also licensed and appointed as a surplus lines agent under this part may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor.

(4) A general lines agent while licensed as a surplus lines agent under this part may appoint these licenses with a single surplus license agent appointment pursuant to s. 624.501. Such agent may only originate surplus lines business and accept surplus lines business from other originating Florida-licensed general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer.

Section 19. Paragraphs (j) is added to subsection (4) of section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION CONTRACTS AND PURCHASES.—

(j)1. After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this subsection which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to

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approve or deny a contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

2. All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process by a minimum of three vendors. The formal bid solicitation process must include all of the following:

a. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

b. All the contractual terms and conditions applicable to the procurement.

3. Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department by electronic delivery.

Section 20. Subsection (2) of section 627.43141, Florida Statutes, is amended to read:

627.43141 Notice of change in policy terms.—

(2) A renewal policy may contain a change in policy terms. If such change occurs, the insurer shall give the named insured advance written notice summarizing the change, which may be enclosed in ~~along with~~ the written notice of renewal premium

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required under ss. 627.4133 and 627.728 or sent separately within the timeframe required under the Florida Insurance Code for the provision of a notice of nonrenewal to the named insured for that line of insurance. The insurer must also provide a sample copy of the notice to the named insured's insurance agent before or at the same time that notice is provided to the named insured. Such notice shall be entitled "Notice of Change in Policy Terms~~.~~" and shall be in bold type of not less than 14 points and included as a single page or consecutive pages, as necessary, within the written notice.

Section 21. Paragraph (a) of subsection (3) of section 627.70152, Florida Statutes, is amended to read:

627.70152 Suits arising under a property insurance policy.—

(3) NOTICE.—

(a) As a condition precedent to filing a suit under a property insurance policy, a claimant must provide the department with written notice of intent to initiate litigation on a form provided by the department. Such notice must be given at least 10 business days before filing suit under the policy, but may not be given before the insurer has made a determination of coverage under s. 627.70131. Notice to the insurer must be provided by the department to the e-mail address designated by the insurer ~~under s. 624.422~~. The notice must state with specificity all of the following information:

1. That the notice is provided pursuant to this section.

2. The alleged acts or omissions of the insurer giving rise to the suit, which may include a denial of coverage.

3. If provided by an attorney or other representative, that a copy of the notice was provided to the claimant.

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4. If the notice is provided following a denial of coverage, an estimate of damages, if known.

5. If the notice is provided following acts or omissions by the insurer other than denial of coverage, both of the following:

a. The presuit settlement demand, which must itemize the damages, attorney fees, and costs.

b. The disputed amount.

Documentation to support the information provided in this paragraph may be provided along with the notice to the insurer.

Section 22. Subsection (5) is added to section 631.59, Florida Statutes, to read:

631.59 Duties and powers of department and office; association contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of

the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 23. Subsection (6) is added to section 631.722, Florida Statutes, to read:

631.722 Powers and duties of department and office; association contracts and purchases.—

(6)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of

the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 24. Subsection (5) is added to section 631.821, Florida Statutes, to read:

631.821 Powers and duties of the department; board contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the

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contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The plan must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the board must be made available, upon request, to the department via electronic delivery.

Section 25. Section 631.921, Florida Statutes, is amended to read:

631.921 Department powers; board contracts and purchases.—

(1) The corporation shall be subject to examination by the department. By March 1 of each year, the board of directors shall cause a financial report to be filed with the department for the immediately preceding calendar year in a form approved by the department.

(2)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid

solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 26. Paragraph (b) of subsection (3) of section 633.124, Florida Statutes, is amended to read:

633.124 Penalty for violation of law, rule, or order to cease and desist or for failure to comply with corrective order.—

(3)

(b) A person who initiates a pyrotechnic display within any structure commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1. The structure has a fire protection system installed in compliance with s. 633.334.

2. The owner of the structure has authorized in writing the pyrotechnic display.

3. If the local jurisdiction requires a permit for the use

of a pyrotechnic display in an occupied structure, such permit has been obtained and all conditions of the permit complied with or, if the local jurisdiction does not require a permit for the use of a pyrotechnic display in an occupied structure, the person initiating the display has complied with National Fire Protection Association, Inc., Standard 1126, 2021 ~~2001~~ Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 27. Subsection (2) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(2) The State Fire Marshal shall adopt the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code but may not adopt a building, mechanical, accessibility, or plumbing code. The State Fire Marshal shall adopt the current edition of the Life Safety Code, NFPA 101, current editions, by reference. The State Fire Marshal may modify the selected codes and standards as needed to accommodate the specific needs of the state. Standards or criteria in the selected codes shall be similarly incorporated by reference. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions that address uniform firesafety standards as established in s. 633.206. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions addressing regional and local concerns and variations.

Section 28. Paragraph (b) of subsection (1) of section 633.206, Florida Statutes, is amended to read:

633.206 Uniform firesafety standards.—The Legislature

hereby determines that to protect the public health, safety, and welfare it is necessary to provide for firesafety standards governing the construction and utilization of certain buildings and structures. The Legislature further determines that certain buildings or structures, due to their specialized use or to the special characteristics of the person utilizing or occupying these buildings or structures, should be subject to firesafety standards reflecting these special needs as may be appropriate.

(1) The department shall establish uniform firesafety standards that apply to:

(b) All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, mobile food dispensing vehicles, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, energy storage systems, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority.

In the event there is a dispute between the owners of the buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal’s interpretation regarding the uniform firesafety

standards shall be considered final agency action.

Section 29. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections of the Florida Insurance Code, and with its charter powers and must comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it secures and maintains contractual liability insurance in accordance with the following:

1. Coverage of 100 percent of the claim exposure is obtained from an insurer or insurers approved by the office, which hold ~~holds~~ a certificate of authority under s. 624.401 to do business within this state, or secured through ~~a~~ risk retention groups ~~group~~, which are ~~is~~ authorized to do business within this state under s. 627.943 or s. 627.944. Such insurers ~~insurer~~ or risk retention groups ~~group~~ must maintain a surplus as regards policyholders of at least $15 million.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which

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no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3). The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office with the claims statistics.

6. A policy issued in compliance with this paragraph may either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also

maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

Section 30. Subsection (5) of section 634.081, Florida Statutes, is amended to read:

634.081 Suspension or revocation of license; grounds.—

(5) The office shall suspend or revoke the license of a company if it finds that the ratio of gross written premiums written to net assets exceeds 10 to 1 unless the company has in excess of $750,000 in net assets and is utilizing contractual liability insurance which cedes 100 percent of the service agreement company's claims liabilities to the contractual liability insurers ~~insurer~~ or is utilizing contractual liability insurance which reimburses the service agreement company for 100 percent of its paid claims. However, if a service agreement company has been licensed by the office in excess of 10 years, is in compliance with all applicable provisions of this part, and has net assets at all times in excess of $3 million that comply with the provisions of part II of chapter 625, such company may not exceed a ratio of gross written premiums written to net assets of 15 to 1.

Section 31. Present subsection (5) of section 634.3077, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsection (3) of that section is amended, to read:

634.3077 Financial requirements.—

(3) An association may ~~shall~~ not be required to set up an unearned premium reserve if it has purchased contractual

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liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy may not be canceled or not renewed by ~~either~~ the insurer or the association unless 60 days' written notice thereof has been given to the office by the insurer before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy shall insure all home warranty contracts that were issued while the policy was in effect whether or not the premium has been remitted to the insurer.

(5) An association licensed under this part is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the

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ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the office with the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be $100 million, and a quarterly written certification to the office that the association or its parent corporation continues to maintain the net worth required under this paragraph.

2. The association's or its parent corporation's Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under

this part.

(b) If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following provisions must be met:

1. The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the office. A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the office written notice at least 90 days before the effective date of the cancellation, termination, or modification and the office approves the request in writing. Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section. If the association or parent corporation does not demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.

2. The association must maintain at all times net assets of at least $750,000.

Section 32. Section 634.317, Florida Statutes, is amended to read:

634.317 License and appointment required.—No person may

solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is licensed and appointed as a sales representative. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensee's employees. An agent or employee of a municipal or county government is exempt from these licensing and appointment requirements.

Section 33. Present subsection (9) of section 648.25, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) and subsection (11) are added to that section, to read:

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

(9) "Referring bail bond agent" is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company.

(11) "Transfer bond" means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody, and who is appointed to represent the same surety company issuing the appearance bond as the referring bail bond agent.

Section 34. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from s. 119.07(1) until such investigation is completed

or ceases to be active, unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. For the purpose of this section, an investigation is considered active while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the subject or the subject's representative, or to share such information with any law enforcement agency or other regulatory body.

Section 35. Paragraph (a) of subsection (1) of section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1)(a) A person or entity may not act in the capacity of a bail bond agent or bail bond agency or perform any of the functions, duties, or powers prescribed for bail bond agents or bail bond agencies under this chapter unless that person or entity is qualified, licensed, and appointed as provided in this chapter ~~and employed by a bail bond agency~~.

Section 36. Subsection (1) of section 648.355, Florida

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Statutes, is amended to read:

648.355 Limited surety agents and professional bail bond agents; qualifications.—

(1) The applicant shall furnish, with the application for license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) ~~and a recent credential-sized, fullface photograph of the applicant~~. The department may not issue a license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 37. Subsection (3) of section 648.43, Florida Statutes, is amended to read:

648.43 Power of attorney; approval by office; filing of copies; notification of transfer bond.—

(3) Every bail bond agent who executes or countersigns a transfer bond shall indicate in writing on the bond the name<u>,</u> ~~and~~ address<u>, and license number</u> of the referring bail bond agent.

Section 38. Section 717.101, Florida Statutes, is amended to read:

717.101 Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Aggregate" means the amounts reported for owners of unclaimed property of less than $50 or where there is no name for the individual or entity listed on the holder's records, regardless of the amount to be reported.

(2) "Apparent owner" means the person whose name appears on

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the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Audit" means an action or proceeding to examine and verify a person's records, books, accounts, and other documents to ascertain and determine compliance with this chapter.

(4) "Audit agent" means a person with whom the department enters into a contract with to conduct an audit or examination. The term includes an independent contractor of the person and each individual participating in the audit on behalf of the person or contractor.

(5) ~~(3)~~ "Banking organization" means any and all banks, trust companies, private bankers, savings banks, industrial banks, safe-deposit companies, savings and loan associations, credit unions, and investment companies in this state, organized under or subject to the laws of this state or of the United States, including entities organized under 12 U.S.C. s. 611, but does not include Federal Reserve Banks. The term also includes any corporation, business association, or other organization that:

(a) Is a wholly or partially owned subsidiary of any banking, banking corporation, or bank holding company that performs any or all of the functions of a banking organization; or

(b) Performs functions pursuant to the terms of a contract with any banking organization ~~state or national bank, international banking entity or similar entity, trust company, savings bank, industrial savings bank, land bank, safe-deposit company, private bank, or any organization otherwise defined by law as a bank or banking organization~~.

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(6) ~~(4)~~ "Business association" means any for-profit or nonprofit corporation other than a public corporation; joint stock company; investment company; unincorporated association or association of two or more individuals for business purposes, whether or not for profit; partnership; joint venture; limited liability company; sole proprietorship; business trust; trust company; land bank; safe-deposit company; safekeeping depository; financial organization; insurance company; federally chartered entity; utility company; or other business entity, whether or not for profit ~~corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, limited liability company, or association of two or more individuals for business purposes, whether for profit or not for profit~~.

(7) ~~(5)~~ "Claimant" means the person on whose behalf a claim is filed.

(8) "Claimant's representative" means an attorney who is a member in good standing of The Florida Bar, a certified public accountant licensed in this state, or private investigator who is duly licensed to do business in the state, registered with the department, and authorized by the claimant to claim unclaimed property on the claimant's behalf. The term does not include a person acting in a representative capacity, such as a personal representative, guardian, trustee, or attorney, whose representation is not contingent upon the discovery or location of unclaimed property; provided, however, that any agreement entered into for the purpose of evading s. 717.135 is invalid and unenforceable.

(9) ~~(6)~~ "Credit balance" means an account balance in the

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customer's favor.

(10)~~(7)~~ "Department" means the Department of Financial Services.

(11)~~(8)~~ "Domicile" means the state of incorporation for a corporation; the state of filing for a business association, other than a corporation, whose formation or organization requires a filing with a state; the state of organization for a business association, other than a corporation, whose formation or organization does not require a filing with a state; or the state of home office for a federally charted entity ~~incorporated under the laws of a state, or, for an unincorporated business association, the state where the business association is organized~~.

(12)~~(9)~~ "Due diligence" means the use of reasonable and prudent methods under particular circumstances to locate apparent owners of inactive accounts using the taxpayer identification number or social security number, if known, which may include, but are not limited to, using a nationwide database, cross-indexing with other records of the holder, mailing to the last known address unless the last known address is known to be inaccurate, providing written notice as described in this chapter by electronic mail if an apparent owner has elected such delivery, or engaging a licensed agency or company capable of conducting such search and providing updated addresses.

(13) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(14)~~(10)~~ "Financial organization" means a ~~state or federal~~

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savings association, savings and loan association, savings bank, industrial bank, bank, banking organization, trust company, international bank agency, cooperative bank, building and loan association, or credit union.

(15) ~~(11)~~ "Health care provider" means any state-licensed entity that provides and receives payment for health care services. These entities include, but are not limited to, hospitals, outpatient centers, physician practices, and skilled nursing facilities.

(16) ~~(12)~~ "Holder" means:

(a) A person~~, wherever organized or domiciled,~~ who is in possession or control or has custody of property or the rights to property belonging to another; is indebted to another on an obligation; or is obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter; or~~:~~

~~(a) In possession of property belonging to another;~~

(b) A trustee in case of a trust~~; or~~

~~(c) Indebted to another on an obligation~~.

(17) ~~(13)~~ "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether for profit or not for profit, which is engaged in providing insurance coverage.

(18) ~~(14)~~ "Intangible property" includes, by way of illustration and not limitation:

(a) Moneys, checks, virtual currency, drafts, deposits, interest, dividends, and income.

(b) Credit balances, customer overpayments, security deposits and other instruments as defined by chapter 679,

refunds, unpaid wages, unused airline tickets, and unidentified remittances.

(c) Stocks, and other intangible ownership interests in business associations.

(d) Moneys deposited to redeem stocks, bonds, bearer bonds, original issue discount bonds, coupons, and other securities, or to make distributions.

(e) Amounts due and payable under the terms of insurance policies.

(f) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

(19) ~~(15)~~ "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, "last known address" includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(20) ~~(16)~~ "Lawful charges" means charges against dormant accounts that are authorized by statute for the purpose of offsetting the costs of maintaining the dormant account.

(21) ~~(17)~~ "Managed care payor" means a health care plan that has a defined system of selecting and limiting health care providers as evidenced by a managed care contract with the

health care providers. These plans include, but are not limited to, managed care health insurance companies and health maintenance organizations.

(22) ~~(18)~~ "Owner" means a person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against property subject to this chapter; a depositor in the case of a deposit; a beneficiary in the case of a trust or a deposit in trust; or a payee in the case of a negotiable instrument or other intangible property ~~a depositor in the case of a deposit, a beneficiary in the case of a trust or a deposit in trust, or a payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative~~.

(23) "Person" means an individual; estate; business association; corporation; firm; association; joint adventure; partnership; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(24) ~~(19)~~ "Public corporation" means a corporation created by the state, founded and owned in the public interest, supported by public funds, and governed by those deriving their power from the state.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) ~~(20)~~ "Reportable period" means the calendar year ending December 31 of each year.

(27) ~~(21)~~ "State," when applied to a part of the United States, includes any state, district, commonwealth, territory,

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insular possession, and any other area subject to the legislative authority of the United States.

(28)~~(22)~~ "Trust instrument" means a trust instrument as defined in s. 736.0103.

~~(23) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether such natural person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.~~

(29) "Unclaimed Property Purchase Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to purchase unclaimed property from an owner.

(30) "Unclaimed Property Recovery Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to obtain an owner's consent and authority to recover unclaimed property on the owner's behalf.

(31)~~(24)~~ "United States" means any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(32)~~(25)~~ "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the

production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(33)(a) "Virtual currency" means digital units of exchange that:

1. Have a centralized repository or administrator;

2. Are decentralized and have no centralized repository or administrator; or

3. May be created or obtained by computing or manufacturing effort.

(b) The term does not include any of the following:

1. Digital units that:

a. Are used solely within online gaming platforms;

b. Have no market or application outside of the online gaming platforms in sub-subparagraph a.;

c. Cannot be converted into, or redeemed for, fiat currency or virtual currency; and

d. Can or cannot be redeemed for real-world goods, services, discounts, or purchases.

2. Digital units that can be redeemed for:

a. Real-world goods, services, discounts, or purchases as part of a customer affinity or rewards program with the issuer or other designated merchants; or

b. Digital units in another customer affinity or rewards program, but cannot be converted into, or redeemed for, fiat currency or virtual currency.

3. Digital units used as part of prepaid cards.

Section 39. Subsections (3) and (4) are added to section 717.102, Florida Statutes, to read:

717.102 Property presumed unclaimed; general rule.—

(3) A presumption that property is unclaimed is rebutted by an apparent owner's expression of interest in the property. An owner's expression of interest in property includes:

(a) A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(b) An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

(c) Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, with respect to an account, underlying security, or interest in a business association;

(d) Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

(e) A deposit into or withdrawal from an account at a financial organization, excluding an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest, which does not constitute an expression of interest; or

(f) Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.

(4) A deceased owner is incapable of expressing an interest

in property.

Section 40. Subsection (5) of section 717.106, Florida Statutes, is amended to read:

717.106 Bank deposits and funds in financial organizations.—

(5) If the documents establishing a deposit described in subsection (1) state the address of a beneficiary of the deposit, and the account has a value of at least $50, notice shall be given to the beneficiary as provided for notice to the apparent owner under s. 717.117(6) ~~s. 717.117(4)~~. This subsection shall apply to accounts opened on or after October 1, 1990.

Section 41. Section 717.1065, Florida Statutes, is created to read:

717.1065 Virtual currency.—

(1) Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity.

(2) A holder may not deduct from the amount of any virtual currency subject to this section any charges imposed by reason of the virtual currency unless there is a valid and enforceable written contract between the holder and the owner of the virtual

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currency pursuant to which the holder may impose those charges and the holder does not regularly reverse or otherwise cancel those charges with respect to the virtual currency.

Section 42. Paragraph (a) of subsection (1) of section 717.1101, Florida Statutes, is amended to read:

717.1101 Unclaimed equity and debt of business associations.—

(1)(a) Stock or other equity interest in a business association is presumed unclaimed on the date of ~~3 years after~~ the earliest of the following:

1. Three years after ~~The date of~~ the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property ~~dividend, stock split, or other distribution unclaimed by the apparent owner~~;

2. Three years after the date of the death of the owner, as evidenced by: ~~The date of a statement of account or other notification or communication that was returned as undeliverable; or~~

a. Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;

b. Receipt by the holder of a copy of the death certificate of the owner;

c. Confirmation by the holder of the owner's death through other means; or

d. Other evidence from which the holder may reasonably

conclude that the owner is deceased; or

3. One year after the date on which the holder receives notice under subparagraph 2. if the notice is received 2 years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of 2 years or less ~~The date the holder discontinued mailings, notifications, or communications to the apparent owner~~.

Section 43. Subsection (1) of section 717.112, Florida Statutes, is amended to read:

717.112 Property held by agents and fiduciaries.—

(1) ~~Except as provided in ss. 717.1125 and 733.816,~~ All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person, including property held by an attorney in fact or an agent, except as provided in ss. 717.1125 and 733.816, is presumed unclaimed unless the owner has within 5 years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

Section 44. Effective January 1, 2025, section 717.117, Florida Statutes, is amended to read:

717.117 Report of unclaimed property.—

(1) Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property under this chapter shall report to the department ~~on such forms as the department may prescribe by rule. In lieu of forms, a report identifying 25 or more~~

~~different apparent owners must be submitted by the holder~~ via electronic medium as the department may prescribe by rule. The report must include:

(a) ~~Except for traveler's checks and money orders,~~ The name, social security number or taxpayer identification number, ~~and~~ date of birth, ~~if known,~~ and last known address~~, if any,~~ of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has a value of $10 ~~$50~~ or more.

(b) For unclaimed funds that ~~which~~ have a value of $10 ~~$50~~ or more held or owing under any life or endowment insurance policy or annuity contract, the identifying information required to be provided under paragraph (a) for both ~~full name, taxpayer identification number or social security number, date of birth, if known, and last known address of~~ the insured or annuitant and ~~of~~ the beneficiary according to records of the insurance company holding or owing the funds.

(c) For all tangible property held in a safe-deposit box or other safekeeping repository, a description of the property and the place where the property is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed.

(d) The nature or type of property, any accounting or ~~and~~ identifying number associated with the property, a ~~if any, or~~ description of the property, and the amount appearing from the records to be due. Items of value less than $10 ~~under $50~~ each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Any other information the department may prescribe by rule as necessary for the administration of this chapter.

(2) If the total value of all presumed unclaimed property, whether tangible or intangible, held by a person is less than $10, a zero balance report may be filed for that reporting period

~~(f) Any person or business association or public corporation holding funds presumed unclaimed and having a total value of $10 or less may file a zero balance report for that reporting period. The balance brought forward to the new reporting period is zero.~~

~~(g) Such other information as the department may prescribe by rule as necessary for the administration of this chapter~~.

(3) ~~(h)~~ Credit balances, customer overpayments, security deposits, and refunds having a value of less than $10 may ~~shall~~ not be presumed unclaimed.

(4) ~~(2)~~ If the holder of property presumed unclaimed and subject to custody as unclaimed property is a successor holder or if the holder has changed the holder's name while in possession of the property, the holder must ~~shall~~ file with the holder's report all known names and addresses of each prior holder of the property. Compliance with this subsection means the holder exercises reasonable and prudent efforts to determine the names of all prior holders.

(5) ~~(3)~~ The report must be filed before May 1 of each year. The report applies ~~shall apply~~ to the preceding calendar year.

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Upon written request by any person required to file a report, and upon a showing of good cause, the department may extend the reporting date. The department may impose and collect a penalty of $10 per day up to a maximum of $500 for the failure to timely report, if an extension was not provided or if the holder of the property failed ~~the failure~~ to include in a report information required by this chapter which was in the holder's possession at the time of reporting. The penalty must ~~shall~~ be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. ~~On written request by any person required to file a report and upon a showing of good cause, the department may postpone the reporting date.~~ The department must provide information contained in a report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 45 days after the department determines that the report ~~has been processed and added to the unclaimed property database subsequent to a determination that the report~~ is accurate and acceptable and that the reported property is the same as the remitted property.

(6)~~(4)~~ Holders of inactive accounts having a value of $50 or more shall use due diligence to locate and notify apparent owners that the entity is holding unclaimed property available for them to recover. Not more than 120 days and not less than 60 days prior to filing the report required by this section, the holder in possession of property presumed unclaimed and subject

to custody as unclaimed property under this chapter shall send written notice by first-class United States mail to the apparent owner at the apparent owner's last known address from the holder's records or from other available sources, or via electronic mail if the apparent owner has elected this method of delivery, informing the apparent owner that the holder is in possession of property subject to this chapter, if the holder has in its records a mailing or electronic ~~an~~ address for the apparent owner which the holder's records do not disclose to be inaccurate. These two means of contact are not mutually exclusive; if the mailing address is determined to be inaccurate, electronic mail may be used if so elected by the apparent owner.

(7) The written notice to the apparent owner required under this section must:

(a) Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before (insert date that is 30 days after the date of notice)."

(b) Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice.

(c) State that the property will be turned over to the custody of the department if no response is received within 30 days after the date of the notice.

(d) State that any property that is not legal tender of the United States may be sold or liquidated by the department.

(e) State that after the property is turned over to the

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department, an apparent owner seeking return of the property may file a claim with the department.

(f) State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the department.

(8)~~(5)~~ Any holder of intangible property may file with the department a petition for determination that the property is unclaimed requesting the department to accept custody of the property. The petition shall state any special circumstances that exist, contain the information required by subsection (4)~~(2)~~, and show that a diligent search has been made to locate the owner. If the department finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118 and accept custody of the property.

(9)~~(6)~~ Upon written request by any entity or person required to file a report, stating such entity's or person's justification for such action, the department may place that entity or person in an inactive status as an unclaimed property "holder."

(10)~~(7)~~(a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 or that are exempt from ad valorem taxation pursuant to s. 196.2002.

(b) This section does not apply to intangible property held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of

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such property does not have any obligation to report, to pay, or to deliver such property to the department.

(c) This section does not apply to credit balances, overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care contract, provided that the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.

(11) ~~(8)~~ (a) As used in this subsection, the term "property identifier" means the descriptor used by the holder to identify the unclaimed property.

(b) Social security numbers and property identifiers contained in reports required under this section, held by the department, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) This exemption applies to social security numbers and property identifiers held by the department before, on, or after the effective date of this exemption.

Section 45. Present subsections (4), (5), and (6) of section 717.119, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, and a new subsection (4) and subsection (8) are added to that section, to read:

717.119 Payment or delivery of unclaimed property.—

(4) All virtual currency reported under this chapter on the annual report filing required in s. 717.117 shall be remitted to the department with the report. The holder shall liquidate the virtual currency and remit the proceeds to the department. The liquidation must occur within 30 days before the filing of the

report. Upon delivery of the virtual currency proceeds to the department, the holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person for any losses or damages resulting to the person by the delivery to the department of the virtual currency proceeds.

(8) A holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder.

(a) Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligation to report, pay, or deliver property or to comply with the duties of this chapter regarding the transfer of property owed to the holder's successor and being held for an owner resulting from the merger, consolidation, or acquisition.

(b) This subsection does not prohibit a holder from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible to the department for the complete, accurate, and timely reporting of the property.

Section 46. Section 717.1201, Florida Statutes, is amended to read:

717.1201 Custody by state; holder ~~relieved from~~ liability; reimbursement of holder paying claim; reclaiming for owner; ~~defense of holder;~~ payment of safe-deposit box or repository charges.—

(1) Upon the good faith payment or delivery of property to the department, the state assumes custody and responsibility for the safekeeping of property. Any person who pays or delivers property to the department in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(a) A holder's substantial compliance with s. 717.117(4) and good faith payment or delivery of property to the department terminates any legal relationship between the holder and the owner with respect to the property reported and releases and discharges the holder from any and all liability to the owner, the owner's heirs, personal representatives, successors, or assigns by reason of such payment or delivery, regardless of whether such property is in fact and in law unclaimed property, and such delivery and payment may be plead as a bar to recovery and are a conclusive defense in any suit or action brought by the owner, the owner's heirs, personal representatives, successors, and assigns or any claimant against the holder by reason of such delivery or payment.

(b) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

(2) For the purposes of this section, a payment or delivery of property is made in good faith if:

(a) The payment or delivery was made in conjunction with an accurate and acceptable report.

(b) The payment or delivery was made in a reasonable attempt to comply with this chapter.

(c) The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter.

(d) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(3) ~~(2)~~ Any holder who has paid money to the department pursuant to this chapter may make payment to any person appearing to be entitled to payment and, upon filing proof that the payee is entitled thereto, the department shall forthwith repay the holder without deduction of any fee or other charges. If repayment is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be repaid under this subsection upon filing proof that the instrument was duly presented and that the payee is entitled to payment. The holder shall be repaid for payment made under this subsection even if the payment was made to a person whose claim was barred under s. 717.129(1).

(4) ~~(3)~~ Any holder who has delivered property, including a certificate of any interest in a business association, other than money to the department pursuant to this chapter may reclaim the property if still in the possession of the department, without payment of any fee or other charges, upon

filing proof that the owner has claimed the property from the holder.

(5) ~~(4)~~ The department may accept an affidavit of the holder stating the facts that entitle the holder to recover money and property under this section as sufficient proof.

~~(5) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.~~

~~(6) For the purposes of this section, "good faith" means that:~~

~~(a) Payment or delivery was made in a reasonable attempt to comply with this chapter.~~

~~(b) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was unclaimed for the purposes of this chapter.~~

~~(c) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.~~

(6) ~~(7)~~ Property removed from a safe-deposit box or other safekeeping repository is received by the department subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract

providing for the holder to be reimbursed for unpaid rent or storage charges. The department shall make the reimbursement to the holder out of the proceeds remaining after the deduction of the department's selling cost.

(7) If it appears to the satisfaction of the department that, because of some mistake of fact, error in calculation, or erroneous interpretation of a statute, a person has paid or delivered to the department pursuant to any provision of this chapter any money or other property not required by this chapter to be so paid or delivered, the department may, within 5 years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with this chapter.

Section 47. Subsection (1) of section 717.123, Florida Statutes, is amended to read:

717.123 Deposit of funds.—

(1) All funds received under this chapter, including the proceeds from the sale of unclaimed property under s. 717.122, shall forthwith be deposited by the department in the Unclaimed Property Trust Fund. The department shall retain, from funds received under this chapter, an amount not exceeding $65 ~~$15~~ million from which the department shall make prompt payment of claims allowed by the department and shall pay the costs incurred by the department in administering and enforcing this chapter. All remaining funds received by the department under this chapter shall be deposited by the department into the State School Fund.

Section 48. Present subsection (2) of section 717.1242,

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Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.—

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that, pursuant to this chapter ~~s. 717.124~~, the department determines the merits of claims and entitlements to ~~for~~ property paid or delivered to the department under this chapter. Consistent with this legislative intent, any ~~estate or~~ beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeking to obtain property paid or delivered to the department under this chapter must file a claim with the department as provided in s. 717.124.

(2) If a beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeks administration of the estate, of which unclaimed property makes up 50 percent or more of the assets, the department is considered an interested party and must be provided with notice of any such proceeding as provided in the Florida Probate Code and the Florida Probate Rules.

Section 49. Subsection (4) of section 717.1243, Florida Statutes, is amended to read:

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717.1243 Small estate accounts.—

(4) This section ~~only~~ applies only if all of the unclaimed property held by the department on behalf of the owner has an aggregate value of $20,000 ~~$10,000~~ or less and no probate proceeding is pending.

Section 50. Section 717.1245, Florida Statutes, is amended to read:

717.1245 Garnishment of unclaimed property.—

(1) In addition to the fees, costs, and compensation specified in ss. 77.17 and 77.28, if any person files a petition for writ of garnishment seeking to obtain property paid or delivered to the department under this chapter, the plaintiff must ~~petitioner shall~~ be ordered to pay the department reasonable costs and attorney ~~attorney's~~ fees if ~~in~~ any proceeding brought by the department opposes ~~to oppose~~, appeals ~~appeal~~, or collaterally attacks ~~attack~~ the petition or writ and if the department is the prevailing party in any such proceeding.

(2) If a final judgment on the writ is issued in the plaintiff's favor, the plaintiff must still file a claim with the department as provided in s. 717.124.

Section 51. Subsection (2) of section 717.129, Florida Statutes, is amended to read:

717.129 Periods of limitation.—

(2) The department may not commence an ~~No~~ action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property or any other duty of a holder under this chapter ~~may be commenced by the department with respect to any duty of a holder under this chapter~~ more

than 10 years after the duty arose. The period of limitation established under this subsection is tolled by the earlier of the department's or audit agent's delivery of a notice that a holder is subject to an audit or examination under s. 717.1301 or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Section 52. Section 717.1301, Florida Statutes, is amended to read:

717.1301 Investigations; examinations; subpoenas.—

(1) To carry out the chapter's purpose of protecting the interest of missing owners through the safeguarding of their property and to administer and enforce this chapter, the department may:

(a) Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim.

(b) Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to this chapter to determine whether the person complied with this chapter. Such records may include information to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the department.

(c) Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with this chapter.

(d) Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for

examination or audit and that the testimony specified in paragraph (c) be provided.

(e) Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action.

(f) Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

(2) If a person is subject to reporting property under this chapter, the department may require the person to file a verified report in a form prescribed by the department. The verified report must:

(a) State whether the person is holding property reportable under this chapter;

(b) Describe the property not previously reported, the property about which the department has inquired, or the property that is in dispute as to whether it is reportable under this chapter; and

(c) State the amount or value of the property.

(3) The department may authorize a compliance review of a report for a specified reporting year. The review must be limited to the contents of the report filed, as required by s. 717.117 and subsection (2), and all supporting documents related to the reports. If the review results in a finding of a deficiency in unclaimed property due and payable to the department, the department shall notify the holder in writing of the amount of deficiency within 1 year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the department may seek to enforce

the assessment under subsection (1). The department is not required to conduct a review under this section before initiating an audit.

(4) Notwithstanding any other provision of law, in a contract providing for the location or collection of unclaimed property, the department may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The department shall annually report to the Chief Financial Officer the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

~~(1) The department may make investigations and examinations within or outside this state of claims, reports, and other records as it deems necessary to administer and enforce the provisions of this chapter. In such investigations and examinations the department may administer oaths, examine witnesses, issue subpoenas, and otherwise gather evidence. The department may request any person who has not filed a report under s. 717.117 to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.~~

~~(2) Subpoenas for witnesses whose evidence is deemed material to any investigation or examination under this section may be issued by the department under seal of the department, or by any court of competent jurisdiction, commanding such witnesses to appear before the department at a time and place named and to bring such books, records, and documents as may be specified or to submit such books, records, and documents to~~

~~inspection. Such subpoenas may be served by an authorized representative of the department.~~

~~(3) If any person shall refuse to testify, produce books, records, and documents, or otherwise refuse to obey a subpoena issued under this section, the department may present its petition to a court of competent jurisdiction in or for the county in which such person resides or has its principal place of business, whereupon the court shall issue its rule nisi requiring such person to obey forthwith the subpoena issued by the department or show cause for failing to obey said subpoena. Unless said person shows sufficient cause for failing to obey the subpoena, the court shall forthwith direct such person to obey the same subject to such punishment as the court may direct including, but not limited to, the restraint, by injunction or by appointment of a receiver, of any transfer, pledge, assignment, or other disposition of such person's assets or any concealment, alteration, destruction, or other disposition of subpoenaed books, records, or documents as the court deems appropriate, until such person has fully complied with such subpoena and the department has completed its investigation or examination. The department is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on its calendar. Costs incurred by the department to obtain an order granting, in whole or in part, its petition shall be taxed against the subpoenaed person, and failure to comply with such order shall be a contempt of court.~~

~~(4) Witnesses shall be entitled to the same fees and mileage as they may be entitled by law for attending as witnesses in the circuit court, except where such examination or~~

~~investigation is held at the place of business or residence of the witness.~~

(5) The material compiled by the department in an investigation or examination under this chapter is confidential until the investigation or examination is complete. If any such material contains a holder's financial or proprietary information, it may not be disclosed or made public by the department after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Such material may be considered a trade secret and exempt from s. 119.07(1) as provided for in s. 119.0715. The records, data, and information gathered ~~material compiled~~ by the department in an investigation or audit ~~examination~~ under this chapter remain ~~remains~~ confidential ~~after the department's investigation or examination is complete~~ if the department has submitted the material or any part of it to any law enforcement agency or other administrative agency for further investigation or for the filing of a criminal or civil prosecution and such investigation has not been completed or become inactive.

(6) If an investigation or an audit ~~examination~~ of the records of any person results in the disclosure of property reportable and deliverable under this chapter, the department may assess the cost of the investigation or audit ~~the examination~~ against the holder ~~at the rate of $100 per 8-hour day for each investigator or examiner~~. ~~Such fee shall be calculated on an hourly basis and shall be rounded to the nearest hour. The person shall also pay the travel expense and~~

~~per diem subsistence allowance provided for state employees in s. 112.061. The person shall not be required to pay a per diem fee and expenses of an examination or investigation which shall consume more than 30 worker-days in any one year unless such examination or investigation is due to fraudulent practices of the person, in which case such person shall be required to pay the entire cost regardless of time consumed.~~ The fee for the costs of the investigation or audit shall be remitted to the department within 30 days after the date of the notification that the fee is due and owing. Any person who fails to pay the fee within 30 days after the date of the notification that the fee is due and owing shall pay to the department interest at the rate of 12 percent per annum on such fee from the date of the notification.

Section 53. Subsection (1) of section 717.1311, Florida Statutes, is amended to read:

717.1311 Retention of records.—

(1) Every holder required to file a report under s. 717.117 shall maintain a record of the specific type of property, amount, name, and last known address of the owner for 10 ~~5~~ years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (2) or by rule of the department.

Section 54. Paragraph (j) of subsection (1) and subsection (3) of section 717.1322, Florida Statutes, are amended to read:

717.1322 Administrative and civil enforcement.—

(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter

120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement to file a claim for unclaimed property owned by another, ~~or a contract or agreement to purchase unclaimed property,~~ unless such person is registered with the department under this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This paragraph does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

(3) A claimant's representative ~~registrant~~ is subject to civil enforcement and the disciplinary actions specified in subsection (2) for violations of subsection (1) by an agent or employee of the registrant's employer if the claimant's representative ~~registrant~~ knew or should have known that such

agent or employee was violating any provision of this chapter.

Section 55. Subsection (1) of section 717.1333, Florida Statutes, is amended to read:

717.1333 Evidence; estimations; audit reports and worksheets, investigator ~~examiner's worksheets, investigative~~ reports and worksheets, other related documents.—

(1) In any proceeding involving a holder under ss. 120.569 and 120.57 in which an audit agent ~~auditor, examiner,~~ or investigator acting under authority of this chapter is available for cross-examination, any official written report, worksheet, or other related paper, or copy thereof, compiled, prepared, drafted, or otherwise made or received by the audit agent ~~auditor, examiner,~~ or investigator, after being duly authenticated by the audit agent ~~auditor, examiner,~~ or investigator, may be admitted as competent evidence upon the oath of the audit agent ~~auditor, examiner,~~ or investigator that the report, worksheet, or related paper was prepared or received as a result of an audit, examination, or investigation of the books and records of the person audited, examined, or investigated, or the agent thereof.

Section 56. Subsections (1) and (2) of section 717.134, Florida Statutes, are amended to read:

717.134 Penalties and interest.—

(1) For any person who willfully fails to render any report required under this chapter, the department may impose and collect a penalty of $500 per day up to a maximum of $5,000 and 25 percent of the value of property not reported until an appropriate ~~a~~ report is provided ~~rendered for any person who willfully fails to render any report required under this~~

~~chapter~~. Upon a holder's showing of good cause, the department may waive said penalty or any portion thereof. If the holder acted in good faith and without negligence, the department shall waive the penalty provided herein.

(2) For any person who willfully refuses to pay or deliver unclaimed property to the department as required under this chapter, the department may impose and collect a penalty of $500 per day up to a maximum of $5,000 and 25 percent of the value of property not paid or delivered until the property is paid or delivered ~~for any person who willfully refuses to pay or deliver abandoned property to the department as required under this chapter~~.

Section 57. Section 717.135, Florida Statutes, is amended to read:

717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative or a purchaser; fees and costs, or total net gain.—

(1) In order to protect the interests of owners of unclaimed property, the department shall adopt by rule a form entitled "Unclaimed Property Recovery Agreement" and a form entitled "Unclaimed Property Purchase Agreement."

(2) The Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must include and disclose all of the following:

(a) The total dollar amount of unclaimed property accounts claimed or sold.

(b) The total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the

purchaser ~~purchasing claimant's representative~~.

(c) The total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's representative or the total net dollar amount to be received by the purchaser ~~purchasing claimant's representative~~.

(d) The net dollar amount to be received by the claimant or the seller.

(e) For each account claimed, the unclaimed property account number.

(f) For the Unclaimed Property Purchase Agreement, a statement that the amount of the purchase price will be remitted to the seller by the purchaser within 30 days after the execution of the agreement by the seller.

(g) The name, address, e-mail address, phone number, and license number of the claimant's representative, or the name, address, e-mail address, and phone number of the purchaser.

(h)1. The manual signature of the claimant or seller and the date signed, affixed on the agreement by the claimant or seller.

2. Notwithstanding any other provision of this chapter to the contrary, the department may allow an apparent owner, who is also the claimant or seller, to sign the agreement electronically ~~for claims of $2,000 or less~~. All electronic signatures on the Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must be affixed on the agreement by the claimant or seller using the specific, exclusive eSignature product and protocol authorized by the department.

(i) The social security number or taxpayer identification

number of the claimant or seller, if a number has been issued to the claimant or seller.

(j) The total fees and costs, or the total discount in the case of a purchase agreement, which may not exceed 30 percent of the claimed amount. In the case of a recovery agreement, if the total fees and costs exceed 30 percent, the fees and costs shall be reduced to 30 percent and the net balance shall be remitted directly by the department to the claimant. In the case of a purchase agreement, if the total net gain of the purchaser exceeds 30 percent, the claim will be denied.

(3) For an Unclaimed Property Purchase Agreement form, proof that the purchaser has made payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

(4) A claimant's representative or a purchaser must use the Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase Agreement as the exclusive means of entering into an agreement or a contract with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to, or received by, a claimant's representative or a purchaser only after a filed claim has been approved and if the claimant's representative used an agreement authorized by this section.

(6) A claimant's representative or a purchaser may not use or distribute any other agreement of any type, conveyed by any method, with respect to the claimant or seller which relates, directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement,

authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative or a purchaser is subject to administrative and civil enforcement under s. 717.1322 if he or she uses an agreement that is not authorized by this section and if the agreement is used to apply, directly or indirectly, to unclaimed property held by this state. This subsection does not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.

(7) The Unclaimed Property Recovery Agreement ~~and the Unclaimed Property Purchase Agreement~~ may not contain language that makes the agreement irrevocable or that creates an assignment of any portion of unclaimed property held by the department.

(8) When a claim is approved, the department may pay any additional account that is owned by the claimant but has not been claimed at the time of approval, provided that a subsequent claim has not been filed or is not pending for the claimant at the time of approval.

(9) This section does not supersede s. 717.1241.

(10) This section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy trustee appointed to represent a debtor's estate in a bankruptcy proceeding in accordance with the United States Bankruptcy Code.

Section 58. Subsections (1), (2), and (3) of section 717.1400, Florida Statutes, are amended to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~

receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a private investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's firm or employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The business address and telephone number of the applicant's private investigative firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's firm or employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department,

and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a Florida-certified public accountant must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a Florida-certified public accountant must provide:

(a) The applicant’s Florida Board of Accountancy number.

(b) A legible copy of the applicant’s current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant’s public accounting firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the Florida-certified public accountant, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the accountant’s public accounting firm employer.

(3) In order to file claims as a claimant’s representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, an attorney licensed to practice in this state must register with the

department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, such attorney must provide:

(a) The applicant's Florida Bar number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the attorney, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the attorney's firm or employer.

Section 59. Paragraph (a) of subsection (2) of section 197.582, Florida Statutes, is amended to read:

197.582 Disbursement of proceeds of sale.—

(2)(a) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the surplus must be paid over and disbursed by the clerk as set forth in subsections (3), (5), and (6). If the opening bid included the homestead assessment pursuant to s. 197.502(6)(c), that amount must be treated as surplus and distributed in the same manner.

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The clerk shall distribute the surplus to the governmental units for the payment of any lien of record held by a governmental unit against the property, including any tax certificates not incorporated in the tax deed application and omitted taxes, if any. If there remains a balance of undistributed funds, the balance must be retained by the clerk for the benefit of persons described in s. 197.522(1)(a), except those persons described in s. 197.502(4)(h), as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit at the addresses provided in s. 197.502(4). Such notice constitutes compliance with the requirements of s. 717.117(6) ~~s. 717.117(4)~~. Any service charges and costs of mailing notices shall be paid out of the excess balance held by the clerk. Notice must be provided in substantially the following form:

NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

CLERK OF COURT

.... COUNTY, FLORIDA

Tax Deed #.....

Certificate #.....

Property Description: .....

Pursuant to chapter 197, Florida Statutes, the above property was sold at public sale on ...(date of sale)..., and a surplus of $...(amount)... (subject to change) will be held by this office for 120 days beginning on the date of this notice to benefit the persons having an interest in this property as described in section 197.502(4), Florida Statutes, as their interests may appear (except for those persons described in section 197.502(4)(h), Florida Statutes).

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To the extent possible, these funds will be used to satisfy in full each claimant with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former property owner. To be considered for funds when they are distributed, you must file a notarized statement of claim with this office within 120 days of this notice. If you are a lienholder, your claim must include the particulars of your lien and the amounts currently due. Any lienholder claim that is not filed within the 120-day deadline is barred.

A copy of this notice must be attached to your statement of claim. After the office examines the filed claim statements, it will notify you if you are entitled to any payment.

Dated: .....

Clerk of Court

Section 60. Subsection (1) of section 717.1382, Florida Statutes, is amended to read:

717.1382 United States savings bond; unclaimed property; escheatment; procedure.—

(1) Notwithstanding any other provision of law, a United States savings bond in possession of the department or registered to a person with a last known address in the state, including a bond that is lost, stolen, or destroyed, is presumed abandoned and unclaimed 5 years after the bond reaches maturity and no longer earns interest and shall be reported and remitted to the department by the financial institution or other holder in accordance with ss. 717.117(1) and (5) ~~(3)~~ and 717.119, if the department is not in possession of the bond.

Section 61. The Division of Law Revision is directed to

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prepare a reviser's bill for the 2025 Regular Session of the Legislature to change the term "Division of Investigative and Forensic Services" wherever the term appears in the Florida Statutes to "Division of Criminal Investigations."

Section 62. For the 2024-2025 fiscal year, one full-time equivalent position with associated salary rate of 110,000 is authorized and the sums of $183,863 in recurring funds and $5,067 in nonrecurring funds are appropriated from the Insurance Regulatory Trust Fund to the Department of Financial Services to support the full-time equivalent position.

Section 63. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

================ 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 the Department of Financial Services; creating s. 17.69, F.S.; creating the federal tax liaison position within the department; providing the purpose of the position; requiring the Chief Financial Officer to appoint the federal tax liaison; providing that such liaison reports to the Chief Financial Officer but is not under the authority of the department or any employee of the department; authorizing the federal tax liaison to perform certain actions; amending s. 20.121, F.S.; renaming the Division of Investigative and Forensic Services in the

Department of Financial Services as the Division of Criminal Investigations; deleting provisions relating to duties of such division and to bureaus and offices in such division; abolishing the Division of Public Assistance Fraud; amending s. 121.0515, F.S.; revising requirements for the Special Risk Class membership; amending s. 215.5586, F.S.; revising legislative intent; revising requirements for My Safe Florida Home Program mitigation inspections and mitigation grants; providing additional requirements for applications for inspections and mitigation grants; deleting provisions relating to matching fund grants; revising improvements for which grants may be used; providing a timeframe for finalizing construction and requesting a final inspection or an extension; providing that grant applications are deemed abandoned under a specified circumstance; authorizing the department to request additional information; providing that applications are deemed withdrawn under a specified circumstance; amending s. 284.44, F.S.; deleting provisions relating to certain quarterly reports prepared by the Division of Risk Management; amending s. 440.13, F.S.; providing the reimbursement schedule requirements for emergency services and care under workers' compensation under certain circumstances; amending s. 440.385, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Self-Insurers Guaranty Association, Incorporated; providing duties of the department and

the association relating to these contracts and purchases; amending s. 497.101, F.S.; revising the requirements for appointing and nominating members of the Board of Funeral, Cemetery, and Consumer Services; revising the members' terms; revising the authority to remove board members; providing for vacancy appointments; providing that board members are subject to the code of ethics under part III of ch. 112, F.S.; providing requirements for board members' conduct; specifying prohibited acts; providing penalties; providing requirements for board meetings, books, and records; requiring notices of board meetings; providing requirements for board meetings; amending s. 497.153, F.S.; authorizing service by e-mail of administrative complaints against certain licensees under certain circumstances; amending s. 497.155, F.S.; authorizing service of citations by e-mail under certain circumstances; amending s. 624.155, F.S.; deleting a cross-reference; amending s. 624.307, F.S.; requiring eligible surplus lines insurers to respond to the department or the Office of Insurance Regulation after receipt of requests for documents and information concerning consumer complaints; providing penalties for failure to comply; requiring authorized insurers and eligible surplus lines insurers to file e-mail addresses with the department and to designate contact persons for specified purposes; authorizing changes of designated contact information; amending s. 626.171, F.S.; requiring the department to make

provisions for certain insurance license applicants to submit cellular telephone numbers for a specified purpose; amending s. 626.221, F.S.; providing a qualification for an all-lines adjuster license; amending s. 626.601, F.S.; revising construction; amending s. 626.7351, F.S.; providing a qualification for a customer representative's license; amending s. 626.878, F.S.; providing duties and prohibited acts for adjusters; amending s. 626.929, F.S.; specifying that licensed and appointed general lines agents, rather than general lines agents, may engage in certain activities while also licensed and appointed as surplus lines agents; authorizing general lines agents that are also licensed as surplus lines agents to make certain appointments; authorizing such agents to originate specified business and accept specified business; prohibiting such agents from being appointed by a certain insurer or transacting certain insurance; amending s. 627.351, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Joint Underwriting Association; providing duties of the department and the association regarding such contracts and purchases; amending s. 627.43141, F.S.; providing requirements for a certain notice of change in insurance renewal policy terms; amending s. 627.70152, F.S.; deleting a cross-reference; amending s. 631.59, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Insurance Guaranty Association, Incorporated;

providing duties of the department and the association regarding such contracts and purchases; amending ss. 631.722, 631.821, and 631.921, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Life and Health Insurance Guaranty Association, the board of directors of the Florida Health Maintenance Organization Consumer Assistance Plan, and the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, respectively; providing duties of the department and of the associations and boards regarding such contracts and purchases; amending s. 633.124, F.S.; updating the edition of a manual for the use of pyrotechnics; amending s. 633.202, F.S.; revising the duties of the State Fire Marshal; amending s. 633.206, F.S.; revising the requirements for uniform firesafety standards established by the department; amending s. 634.041, F.S.; specifying the conditions under which service agreement companies do not have to establish and maintain unearned premium reserves; amending s. 634.081, F.S.; specifying the conditions under which service agreement companies' licenses are not suspended or revoked under certain circumstances; amending s. 634.3077, F.S.; specifying requirements for certain contractual liability insurance obtained by home warranty associations; providing that such associations are not required to establish unearned premium reserves or maintain contractual liability insurance; authorizing such

associations to allow their premiums to exceed certain limitations under certain circumstances; amending s. 634.317, F.S.; providing that agents and employees of municipal and county government are exempt from sales representative licenses and appointments under certain circumstances; amending s. 648.25, F.S.; providing definitions; amending s. 648.26, F.S.; revising the circumstances under which investigatory records of the department are confidential and exempt from public records requirements; revising construction; amending s. 648.30, F.S.; revising circumstances under which a person or entity may act in the capacity of a bail bond agent or bail bond agency and perform certain functions, duties, and powers; amending s. 648.355, F.S.; revising the requirements for limited surety agents and professional bail bond agents license applications; amending s. 648.43, F.S.; revising requirements for bail bond agents to execute and countersign transfer bonds; amending s. 717.101, F.S.; defining and revising terms; amending s. 717.102, F.S.; providing a rebuttal to a presumption of unclaimed property; providing requirements for such rebuttal; amending s. 717.106, F.S.; conforming a cross-reference; creating s. 717.1065, F.S.; providing circumstances under which virtual currency held or owing by banking organizations is not presumed unclaimed; prohibiting virtual currency holders from deducting certain charges from the amount of certain virtual currency under certain circumstances;

providing an exception; amending s. 717.1101, F.S.; revising the date on which stocks and other equity interests in business associations are presumed unclaimed; amending s. 717.112, F.S.; providing that certain intangible property held by attorneys in fact and by agents in a fiduciary capacity are presumed unclaimed under certain circumstances; revising the requirements for claiming such property; amending s. 717.117, F.S.; deleting the paper option for reports by holders of unclaimed funds and property; revising the requirements for reporting the owners of unclaimed property and funds; authorizing the department to extend reporting dates under certain circumstances; revising the circumstances under which the department may impose and collect penalties; requiring holders of certain inactive accounts to notify apparent owners; revising the manner of sending such notices; providing requirements for such notices; amending s. 717.119, F.S.; requiring certain virtual currency to be remitted to the department; providing requirements for the liquidation of such virtual currency; providing that holders of such virtual currency are relieved of all liability upon delivery of the virtual currency to the department; prohibiting holders from assigning or transferring certain obligations or from complying with certain provisions; providing that certain entities are responsible for meeting holders' obligations and complying with certain provisions under certain circumstances; providing construction;

amending s. 717.1201, F.S.; providing that good faith payments and deliveries of property to the department relieve holders of all liability; authorizing the department to refund and redeliver certain money and property under certain circumstances; amending s. 717.123, F.S.; revising the maximum amount that the department shall retain from funds of unclaimed property to make certain payment; amending s. 717.1242, F.S.; revising legislative intent; providing circumstances under which the department is considered an interested party in probate proceedings; amending s. 717.1243, F.S.; revising applicability of certain provisions relating to unclaimed small estate accounts; amending s. 717.1245, F.S.; specifying the fees, costs, and compensation that persons filing petitions for writ of garnishment of unclaimed property must pay; requiring such persons to file claims with the department under a specified circumstance; amending s. 717.129, F.S.; revising the requirements and the tolling for the periods of limitation relating to duties of holders of unclaimed funds and property; amending s. 717.1301, F.S.; revising the department’s authorities on the disposition of unclaimed funds and property for specified purposes; prohibiting certain materials from being disclosed or made public under certain circumstances; revising the basis for the department’s cost assessment against holders of unclaimed funds and property; amending s. 717.1311, F.S.; revising the

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recordkeeping requirements for funds and property holders; amending s. 717.1322, F.S.; revising acts that are violations of specified provisions and constitute grounds for administrative enforcement actions and civil enforcement by the department; providing that claimants' representatives, rather than registrants, are subject to civil enforcement and disciplinary actions for certain violations; amending s. 717.1333, F.S.; conforming provisions to changes made by the act; amending s. 717.134, F.S.; conforming provisions to changes made by the act; amending s. 717.135, F.S.; revising the information that certain agreements relating to unclaimed property must disclose; applying certain provisions relating to such agreements to purchasers; deleting a requirement for Unclaimed Property Purchase Agreements; providing nonapplicability; amending s. 717.1400, F.S.; deleting a circumstance under which certain persons must register with the department; amending ss. 197.582 and 717.1382, F.S.; conforming cross-references; providing a directive to the Division of Law Revision; providing an appropriation; providing effective dates.

By Senator DiCeglie

18-00861A-24 20241098__

A bill to be entitled

An act relating to the Department of Financial Services; amending s. 20.121, F.S.; renaming the Division of Investigative and Forensic Services in the Department of Financial Services as the Division of Criminal Investigations; deleting provisions relating to duties of such division and to bureaus and offices in such division; abolishing the Division of Public Assistance Fraud; amending s. 121.0515, F.S.; revising requirements for the Special Risk Class membership; amending s. 215.5586, F.S.; revising legislative intent; revising requirements for My Safe Florida Home Program mitigation inspections and mitigation grants; providing additional requirements for applications for inspections and mitigation grants; deleting provisions relating to matching fund grants; revising improvements for which grants may be used; providing a timeframe for finalizing construction and requesting a final inspection or an extension; providing that grant applications are deemed abandoned under a specified circumstance; authorizing the department to request additional information; providing that applications are deemed withdrawn under a specified circumstance; amending s. 284.44, F.S.; deleting provisions relating to certain quarterly reports prepared by the Division of Risk Management; amending s. 440.13, F.S.; providing the reimbursement schedule requirements for emergency services and care under workers' compensation under certain circumstances; amending s.

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440.385, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Self-Insurers Guaranty Association, Incorporated; providing duties of the department and the association relating to these contracts and purchases; amending s. 497.101, F.S.; revising the requirements for appointing and nominating members of the Board of Funeral, Cemetery, and Consumer Services; revising the members' terms; revising the authority to remove board members; providing for vacancy appointments; providing that board members are subject to the code of ethics under part III of ch. 112, F.S.; providing requirements for board members' conduct; specifying prohibited acts; providing penalties; providing requirements for board meetings, books, and records; requiring notices of board meetings; providing requirements for board meetings; amending s. 497.153, F.S.; authorizing service by e-mail of administrative complaints against certain licensees under certain circumstances; amending s. 497.155, F.S.; authorizing service of citations by e-mail under certain circumstances; amending s. 624.155, F.S.; deleting a cross-reference; amending s. 624.307, F.S.; requiring eligible surplus lines insurers to respond to the department or the Office of Insurance Regulation after receipt of requests for documents and information concerning consumer complaints; providing penalties for failure to comply; requiring authorized insurers and eligible surplus lines insurers to file

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e-mail addresses with the department and to designate contact persons for specified purposes; authorizing changes of designated contact information; amending s. 626.171, F.S.; requiring the department to make provisions for certain insurance license applicants to submit cellular telephone numbers for a specified purpose; amending s. 626.221, F.S.; providing a qualification for an all-lines adjuster license; amending s. 626.601, F.S.; revising construction; amending s. 626.7351, F.S.; providing a qualification for a customer representative's license; amending s. 626.878, F.S.; providing duties and prohibited acts for adjusters; amending s. 626.929, F.S.; specifying that licensed and appointed general lines agents, rather than general lines agents, may engage in certain activities while also licensed and appointed as surplus lines agents; authorizing general lines agents that are also licensed as surplus lines agents to make certain appointments; authorizing such agents to originate specified business and accept specified business; prohibiting such agents from being appointed by a certain insurer or transacting certain insurance; amending s. 627.351, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Joint Underwriting Association; providing duties of the department and the association regarding such contracts and purchases; amending s. 627.43141, F.S.; providing requirements for a certain notice of change in insurance renewal policy terms; amending s.

627.70152, F.S.; deleting a cross-reference; amending s. 631.59, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Insurance Guaranty Association, Incorporated; providing duties of the department and the association regarding such contracts and purchases; creating s. 631.6955, F.S.; requiring insurers subject to the Florida Insurance Guaranty Association requirements to prepare, implement, and maintain a data transfer plan; providing requirements for data transfer plans; providing duties and authority of the Commissioner of Insurance Regulation regarding data transfer plans; amending ss. 631.722, 631.821, and 631.921, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Life and Health Insurance Guaranty Association, the board of directors of the Florida Health Maintenance Organization Consumer Assistance Plan, and the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, respectively; providing duties of the department and of the associations and boards regarding such contracts and purchases; amending s. 633.124, F.S.; updating the edition of a manual for the use of pyrotechnics; amending s. 633.202, F.S.; revising the duties of the State Fire Marshal; amending s. 633.206, F.S.; revising the requirements for uniform firesafety standards established by the department; amending s. 634.041, F.S.; specifying the conditions under which service agreement companies do

not have to establish and maintain unearned premium reserves; amending s. 634.081, F.S.; specifying the conditions under which service agreement companies' licenses are not suspended or revoked under certain circumstances; amending s. 634.3077, F.S.; specifying requirements for certain contractual liability insurance obtained by home warranty associations; providing that such associations are not required to establish unearned premium reserves or maintain contractual liability insurance; authorizing such associations to allow their premiums to exceed certain limitations under certain circumstances; amending s. 634.317, F.S.; providing that agents and employees of municipal and county government are exempt from sales representative licenses and appointments under certain circumstances; amending s. 648.25, F.S.; providing definitions; amending s. 648.26, F.S.; revising the circumstances under which investigatory records of the department are confidential and exempt from public records requirements; revising construction; amending s. 648.30, F.S.; revising circumstances under which a person or entity may act in the capacity of a bail bond agent or bail bond agency and perform certain functions, duties, and powers; amending s. 648.355, F.S.; revising the requirements for limited surety agents and professional bail bond agents license applications; amending s. 648.43, F.S.; revising requirements for bail bond agents to execute and countersign transfer bonds; amending s. 717.101, F.S.;

providing and revising definitions; amending s. 717.102, F.S.; providing a rebuttal to a presumption of unclaimed property; providing requirements for such rebuttal; amending s. 717.106, F.S.; conforming a cross-reference; creating s. 717.1065, F.S.; providing circumstances under which virtual currency held or owing by banking organizations is not presumed unclaimed; prohibiting virtual currency holders from deducting certain charges from amounts of specified instruments under certain circumstances; providing an exception; amending s. 717.1101, F.S.; revising the date on which stocks and other equity interests in business associations are presumed unclaimed; amending s. 717.112, F.S.; providing that certain intangible property held by attorneys in fact and by agents in a fiduciary capacity are presumed unclaimed under certain circumstances; revising the requirements for claiming such property; amending s. 717.117, F.S.; deleting the paper option for reports by holders of unclaimed funds and property; revising the requirements for reporting the owners of unclaimed property and funds; authorizing the department to extend reporting dates under certain circumstances; revising the circumstances under which the department may impose and collect penalties; requiring holders of inactive accounts to notify apparent owners; revising the manner of sending such notices; providing requirements for such notices; amending s. 717.119, F.S.; requiring certain virtual currency to be

remitted to the department; providing requirements for the liquidation of such virtual currency; providing that holders of such virtual currency are relieved of all liability upon delivery of the virtual currency to the department; prohibiting holders from assigning or transferring certain obligations or from complying with certain provisions; providing that certain entities are responsible for meeting holders' obligations and complying with certain provisions under certain circumstances; providing construction; amending s. 717.1201, F.S.; providing that good faith payments and deliveries of property to the department relieve holders of all liability; authorizing the department to refund and redeliver certain money and property under certain circumstances; amending s. 717.123, F.S.; revising the maximum amount that the department shall retain from funds of unclaimed property to make certain payment; amending s. 717.1242, F.S.; revising legislative intent; providing circumstances under which the department is considered an interested party in probate proceedings; revising circumstances under which a party is required to pay the department's costs and attorney fees; amending s. 717.1243, F.S.; revising applicability of certain provisions relating to unclaimed small estate accounts; amending s. 717.1245, F.S.; specifying the fees, costs, and compensation that persons filing petitions for writ of garnishment of unclaimed property must pay; requiring such persons to file

claims with the department under a specified circumstance; amending s. 717.129, F.S.; revising the requirements and the tolling for the periods of limitation relating to duties of holders of unclaimed funds and property; amending s. 717.1301, F.S.; revising the department's authorities on the disposition of unclaimed funds and property for specified purposes; prohibiting certain materials from being disclosed or made public under certain circumstances; revising the basis for the department's cost assessment against holders of unclaimed funds and property; amending s. 717.1311, F.S.; revising the recordkeeping requirements for funds and property holders; amending s. 717.1322, F.S.; revising acts that are violations of specified provisions and constitute grounds for administrative enforcement actions and civil enforcement by the department; providing that claimants' representatives, rather than registrants, are subject to civil enforcement and disciplinary actions for certain violations; amending s. 717.1333, F.S.; conforming provisions to changes made by the act; amending s. 717.134, F.S.; conforming provisions to changes made by the act; amending s. 717.135, F.S.; revising the information that certain agreements relating to unclaimed property must disclose; applying certain provisions relating to such agreements to purchasers; deleting a requirement for Unclaimed Property Purchase Agreements; providing nonapplicability; amending s. 717.1400, F.S.; deleting

a circumstance under which certain persons must register with the department; amending ss. 197.582 and 717.1382, F.S.; conforming a cross-reference; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Present paragraphs (g) through (n) of subsection (2) of section 20.121, Florida Statutes, are redesignated as paragraphs (f) through (m), respectively, and paragraph (e) and present paragraph (f) of that subsection are amended, to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and office:

(e) The Division of Criminal Investigations ~~Investigative and Forensic Services~~, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division may initiate and conduct investigations into any matter under the jurisdiction of the Chief Financial Officer and Fire Marshal within or outside of this state as it deems necessary. ~~If, during an investigation, the division has reason to believe that any criminal law of this state or the United States has or may have been violated, it shall refer any records tending to show such violation to state law enforcement and, if applicable, federal prosecutorial agencies and shall provide investigative assistance to those agencies as appropriate. The division shall include the following bureaus and office:~~

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~~1. The Bureau of Forensic Services;~~

~~2. The Bureau of Fire, Arson, and Explosives Investigations;~~

~~3. The Office of Fiscal Integrity, which shall have a separate budget;~~

~~4. The Bureau of Insurance Fraud; and~~

~~5. The Bureau of Workers' Compensation Fraud.~~

~~(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of the state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of the state has or may have been violated, it shall refer any records supporting such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.~~

Section 2. Paragraph (f) of subsection (2) and paragraph (h) of subsection (3) of section 121.0515, Florida Statutes, are amended to read:

121.0515 Special Risk Class.—

(2) MEMBERSHIP.—

(f) Effective July 1, 2024 ~~2008~~, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of Criminal Investigations ~~State Fire Marshal~~ in the forensic laboratory and meet the special criteria set forth in paragraph (3)(h).

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

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(h) Effective July 1, 2024 ~~2008~~, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of Criminal Investigations ~~State Fire Marshal~~ in the forensic laboratory in one of the following classes:

1. Forensic technologist (class code 8459);

2. Crime laboratory technician (class code 8461);

3. Crime laboratory analyst (class code 8463);

4. Senior crime laboratory analyst (class code 8464);

5. Crime laboratory analyst supervisor (class code 8466);

6. Forensic chief (class code 9602); or

7. Forensic services quality manager (class code 9603);

Section 3. Section 215.5586, Florida Statutes, 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 inspections for eligible homes ~~owners of site built, single family, residential properties~~ and grants to fund hurricane mitigation projects for those homes ~~eligible 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 that may include the following:

(1) HURRICANE MITIGATION INSPECTIONS.—

(a) To be eligible for a hurricane mitigation inspection, all of the following criteria must be met:

1. The home must be a single-family, detached residential property or a townhouse, as defined in s. 481.203.

2. The home must be site-built and owner-occupied.

3. The homeowner must have been granted a homestead exemption on the home under chapter 196.

(b) 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 inspection application and must have attached documents demonstrating that the applicant meets the requirements of paragraph (a). An applicant may submit a new inspection application if all of the following criteria are met:

1. The original application has already been denied or withdrawn.

2. The program's eligibility requirements or applicant's qualifications have changed since the original application date.

3. The applicant reasonably believes that the home will be eligible under the new requirements or qualifications.

(c) An applicant who meets the requirements of paragraph (a) 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).

(d) ~~(a)~~ Licensed inspectors are to provide home inspections of eligible homes ~~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 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.~~

~~(c) 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 ~~to encourage single-family, site-built, owner-occupied, residential property owners~~ to retrofit eligible homes based on the recommendations made in a hurricane mitigation inspection ~~their properties~~ to make the homes ~~them~~ less vulnerable to hurricane damage.

(a) ~~For a homeowner~~ To be eligible for a grant, all of the following criteria must be met:

1. The home must be a single-family, detached residential property or a townhouse, as defined in s. 481.203.

2. The home must be site-built and owner-occupied.

3.~~1.~~ The homeowner must have been granted a homestead exemption on the home under chapter 196.

4.~~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.

5.~~3.~~ The home must undergo an acceptable hurricane mitigation inspection as provided in subsection (1).

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6.~~4.~~ The building permit application for initial construction of the home must have been made before January 1, 2008.

7.~~5.~~ The homeowner must agree to make his or her home available for inspection once a mitigation project is completed.

(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 a single grant application and must have attached documents demonstrating that the applicant meets the requirements of ~~this~~ paragraph (a).

2. An applicant may submit a new grant application if all of the following criteria are met:

a. The original application has already been denied or withdrawn.

b. The program's eligibility requirements or applicant's qualifications have changed since the original application date.

c. The applicant reasonably believes that the home will be eligible under the new requirements or qualifications.

(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.

(d)~~(c)~~ The program shall require ~~create a process in which contractors agree to participate and homeowners select from a list of participating contractors. All~~ mitigation work to ~~must~~ be based upon the securing of all required local permits and inspections, and the work must be performed by properly licensed contractors. The program shall approve only a homeowner grant application that includes an acknowledged statement from the

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homeowner containing the name and state license number of the contractor the homeowner intends to use for the mitigation work. The program must electronically verify that the contractor's state license number is accurate and up to date before grant approval ~~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~~.

~~(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to 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.~~

(e) When recommended by a hurricane mitigation inspection, grants for eligible homes may be used for the following improvements:

1. Opening protection, including windows, skylights, exterior doors, and garage doors.

2. Exterior doors, including garage doors.

3. Reinforcing roof-to-wall connections.

4. Improving the strength of roof-deck attachments.

5. Secondary Water Resistance (SWR) barrier for roof.

(f) When recommended by a hurricane mitigation inspection, grants for townhouses, as defined in s. 481.203, may only be used for opening protection.

(g) The department may require that improvements be made to all openings, including exterior doors and garage doors, as a

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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 (e) or this paragraph.

~~(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 (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.~~

(h) Low-income homeowners, as defined in s. 420.0004(11), who otherwise meet the 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.

(i) The department shall develop a process that ensures the most efficient means to collect and verify grant applications to determine eligibility 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.

(j) Homeowners must finalize construction and request a final inspection, or request an extension for an additional 6

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months, within 1 year after grant approval. If the homeowners fail to comply, the application shall be deemed abandoned and the grant money reverts back to the department.

(3) REQUESTS FOR INFORMATION.—The department may request that the applicant provide additional information. An application shall be deemed withdrawn by the applicant if the department does not receive a response to its request for additional information within 60 days after the notification of any apparent errors or omissions.

(4) ~~(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 is encouraged to distribute the brochure to policyholders of the corporation. ~~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.

(5) ~~(4)~~ FUNDING.—The department may seek out and leverage local, state, federal, or private funds to enhance the financial resources of the program.

(6) ~~(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.

(7) ~~(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.

(8) ~~(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 mitigation ~~initial~~ inspections and mitigation projects ~~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.

(9)~~(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.

(10)~~(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 4. Subsection (6) of section 284.44, Florida Statutes, is amended to read:

284.44 Salary indemnification costs of state agencies.—

~~(6) The Division of Risk Management shall prepare quarterly reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees indicating for each state agency the total amount of salary indemnification benefits paid to claimants and the total amount of reimbursements from~~

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~~state agencies to the State Risk Management Trust Fund for initial costs for the previous quarter. These reports shall also include information for each state agency indicating the number of cases and amounts of initial salary indemnification costs for which reimbursement requirements were waived by the Executive Office of the Governor pursuant to this section.~~

Section 5. Paragraph (a) of subsection (12) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by hospitals and ambulatory surgical centers. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in

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observation status, which shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for hospital inpatient care, hospital outpatient care, and ambulatory surgical centers. A hospital or an ambulatory surgical center shall be reimbursed either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule. Reimbursement for emergency services and care, as defined in s. 395.002, without a maximum reimbursement allowance must be at 75 percent of the hospital's charge, unless there is a contract, in which case the contract governs reimbursement.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing

practitioner taking possession of that medication.

Section 6. Present subsections (9) through (13) of section 440.385, Florida Statutes, are redesignated as subsections (10) through (14), respectively, and a new subsection (9) is added to that section, to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(9) CONTRACTS AND PURCHASES.—

(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The

association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 7. Present subsection (7) of section 497.101, Florida Statutes, is redesignated as subsection (11), subsections (1) through (4) are amended, and a new subsection (7) and subsections (8), (9), and (10) are added to that section, to read:

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, 9 of whom shall be appointed by ~~the Governor from nominations made by~~ the Chief Financial Officer ~~and confirmed by the Senate~~. ~~The Chief Financial Officer shall nominate one to three persons for each of the nine vacancies on the board, and the Governor shall fill each vacancy on the board by appointing one of the persons nominated by the Chief Financial Officer to fill that vacancy. If the Governor objects to each of the nominations for a vacancy, she or he shall inform the Chief Financial Officer in writing. Upon notification of an objection by the Governor, the Chief Financial Officer shall submit one to three additional nominations for that vacancy until the vacancy is filled.~~ One member must be the State Health Officer or her or his designee.

(2) Two members of the board must be funeral directors licensed under part III of this chapter who are associated with a funeral establishment. One member of the board must be a

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funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter which has a valid preneed license issued pursuant to this chapter ~~and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter~~. Two members of the board must be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two members of the board must be consumers who are residents of this state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members must be at least 60 years of age. One member of the board must be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or an embalmer; is not a principal or an employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board must be a principal of a monument establishment licensed under this chapter as a monument builder. One member must be the State Health Officer or her or his designee. There may not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years and may be reappointed; however, a member may not serve for more

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than 8 consecutive years.~~, and~~ The State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Chief Financial Officer ~~Governor~~.

(4) The Chief Financial Officer ~~Governor may suspend and the Senate~~ may remove any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the Chief Financial Officer ~~Governor or Senate, as applicable,~~ to evidence a lack of fitness to sit on the board. A board member shall be deemed to have resigned her or his board membership, and that position shall be deemed vacant, upon the failure of the member to attend three consecutive meetings of the board or at least half of the meetings of the board during any 12-month period, unless the Chief Financial Officer determines that there was good and adequate justification for the absences and that such absences are not likely to continue. Any vacancy so created shall be filled as provided in subsection (1).

(7) Members of the board are subject to the code of ethics under part III of chapter 112. For purposes of applying part III of chapter 112 to activities of the members of the board, those persons are considered public officers, and the department is considered their agency. A board member may not vote on any measure that would inure to his or her special private gain or loss and, in accordance with s. 112.3143(2), may not vote on any measure that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she

knows would inure to the special private gain or loss of his or her relative or business associate. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(8) In accordance with ss. 112.3148 and 112.3149, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the department or the board, which is under consideration for a contract, or which is licensed by the department.

(9) A board member who fails to comply with subsection (7) or subsection (8) is subject to the penalties provided under ss. 112.317 and 112.3173.

(10)(a) All meetings of the board are subject to the requirements of s. 286.011, and all books and records of the board are open to the public for reasonable inspection except as otherwise provided by s. 497.172 or other applicable law.

(b) Except for emergency meetings, the board shall give notice of any board meeting by publication on the association's website at least 7 days before the meeting. The board shall prepare and publish a meeting agenda on its website at least 7 days before the meeting. The agenda must contain the items to be considered in order of presentation. After the agenda has been

made available, a change may be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change must be at the earliest practicable time.

Section 8. Paragraph (a) of subsection (4) of section 497.153, Florida Statutes, is amended to read:

497.153 Disciplinary procedures and penalties.—

(4) ACTION AFTER PROBABLE CAUSE FOUND.—

(a) Service of an administrative complaint may be in person by department staff or any person authorized to make service of process under the Florida Rules of Civil Procedure. Service upon a licensee may in the alternative be made by certified mail, return receipt requested, to the last known address of record provided by the licensee to the department. If service by certified mail cannot be made at the last address provided by the licensee to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the licensee to the department in accordance with s. 497.146.

Section 9. Paragraph (e) of subsection (1) of section 497.155, Florida Statutes, is amended to read:

497.155 Disciplinary citations and minor violations.—

(1) CITATIONS.—

(e) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address in accordance with s. 497.146. If service by certified mail cannot be made at the last address provided by the subject to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-

mail address provided by the subject to the department in accordance with s. 497.146.

Section 10. Paragraph (a) of subsection (3) of section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.—

(3)(a) As a condition precedent to bringing an action under this section, the department and the authorized insurer must have been given 60 days' written notice of the violation. Notice to the authorized insurer must be provided by the department to the e-mail address designated by the insurer ~~under s. 624.422~~.

Section 11. Present paragraphs (c) and (d) subsection (10) of section 624.307, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and paragraph (b) of that subsection is amended, to read:

624.307 General powers; duties.—

(10)

(b) Any person licensed or issued a certificate of authority or made an eligible surplus lines insurer by the department or the office shall respond, in writing or electronically, to the division within 14 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to $5,000 per violation upon any entity licensed by the department or the

office and up to $1,000 per violation by any individual licensed by the department or the office.

(c) Each insurer issued a certificate of authority or made an eligible surplus lines insurer shall file with the department an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). Such insurer shall also designate a contact person for escalated complaint issues and shall provide the name, e-mail address, and telephone number of such person. A licensee of the department, including an agency or a firm, may elect to designate an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). If a licensee, including an agency or a firm, elects not to designate an e-mail address, the department shall direct requests for response to consumer complaints to the e-mail of record for the licensee in the department's licensing system. An insurer or a licensee, including an agency or a firm, may change designated contact information at any time by submitting the new information to the department using the method designated by rule by the department.

Section 12. Subsection (2) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(2) In the application, the applicant shall set forth:

(a) His or her full name, age, social security number, residence address, business address, mailing address, contact telephone numbers, including a business telephone number, and e-

mail address.

(b) A statement indicating the method the applicant used or is using to meet any required prelicensing education, knowledge, experience, or instructional requirements for the type of license applied for.

(c) Whether he or she has been refused or has voluntarily surrendered or has had suspended or revoked a license to solicit insurance by the department or by the supervising officials of any state.

(d) Whether any insurer or any managing general agent claims the applicant is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim, and the applicant's defense thereto, if any.

(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) The applicant's gender (male or female).

(g) The applicant's native language.

(h) The highest level of education achieved by the applicant.

(i) The applicant's race or ethnicity (African American, white, American Indian, Asian, Hispanic, or other).

(j) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

However, the application must contain a statement that an applicant is not required to disclose his or her race or

ethnicity, gender, or native language, that he or she will not be penalized for not doing so, and that the department will use this information exclusively for research and statistical purposes and to improve the quality and fairness of the examinations. The department shall make provisions for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purpose of two-factor authentication of secure login credentials only.

Section 13. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; Registered Claims Adjuster (RCA) from American Insurance College; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by

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the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 14. Subsection (6) of section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(6) The complaint and any information obtained pursuant to the investigation by the department or office are confidential and are exempt from s. 119.07 unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. This subsection does not prevent the department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the individual or entity or its representative, or to share such information with any law enforcement agency or other regulatory body.

Section 15. Subsection (3) of section 626.7351, Florida Statutes, is amended to read:

626.7351 Qualifications for customer representative's license.—The department shall not grant or issue a license as customer representative to any individual found by it to be untrustworthy or incompetent, or who does not meet each of the following qualifications:

(3) Within 4 years preceding the date that the application for license was filed with the department, the applicant has

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earned the designation of Accredited Advisor in Insurance (AAI), Associate in General Insurance (AINS), or Accredited Customer Service Representative (ACSR) from the Insurance Institute of America; the designation of Certified Insurance Counselor (CIC) from the Society of Certified Insurance Service Counselors; the designation of Certified Professional Service Representative (CPSR) from the National Foundation for CPSR; the designation of Certified Insurance Service Representative (CISR) from the Society of Certified Insurance Service Representatives; the designation of Certified Insurance Representative (CIR) from All-Lines Training; the designation of Chartered Customer Service Representative (CCSR) from American Insurance College; the designation of Professional Customer Service Representative (PCSR) from the Professional Career Institute; the designation of Insurance Customer Service Representative (ICSR) from Statewide Insurance Associates LLC; the designation of Registered Customer Service Representative (RCSR) from a regionally accredited postsecondary institution in the state whose curriculum is approved by the department and includes comprehensive analysis of basic property and casualty lines of insurance and testing which demonstrates mastery of the subject; or a degree from an accredited institution of higher learning approved by the department when the degree includes a minimum of 9 credit hours of insurance instruction, including specific instruction in the areas of property, casualty, and inland marine insurance. The department shall adopt rules establishing standards for the approval of curriculum.

Section 16. Section 626.878, Florida Statutes, is amended to read:

626.878 Rules; code of ethics.—

(1) An adjuster shall subscribe to the code of ethics specified in the rules of the department. The rules shall implement the provisions of this part and specify the terms and conditions of contracts, including a right to cancel, and require practices necessary to ensure fair dealing, prohibit conflicts of interest, and ensure preservation of the rights of the claimant to participate in the adjustment of claims.

(2) A person licensed as an adjuster must identify himself or herself in any advertisement, solicitation, or written document based on the adjuster appointment type held.

(3) An adjuster who has had his or her licensed revoked or suspended may not participate in any part of an insurance claim or in the insurance claims adjusting process, including estimating, completing, filing, negotiating, appraising, mediating, umpiring, or effecting settlement of a claim for loss or damage covered under an insurance contract. A person who provides these services while the person's license is revoked or suspended acts as an unlicensed adjuster.

Section 17. Subsection (1) of section 626.929, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

626.929 Origination, acceptance, placement of surplus lines business.—

(1) A licensed and appointed general lines agent while also licensed and appointed as a surplus lines agent under this part may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of

insurance involved and may compensate such agent therefor.

(4) A general lines agent while licensed as a surplus lines agent under this part may appoint these licenses with a single surplus license agent appointment pursuant to s. 624.501. Such agent may only originate surplus lines business and accept surplus lines business from other originating Florida-licensed general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer.

Section 18. Paragraphs (j) is added to subsection (4) of section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION CONTRACTS AND PURCHASES.—

(j)1. After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this subsection which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny a contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

2. All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process by a minimum of three vendors. The formal bid solicitation process must include all of the following:

a. The time and date for the receipt of bids, the

proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

b. All the contractual terms and conditions applicable to the procurement.

3. Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department by electronic delivery.

Section 19. Subsection (2) of section 627.43141, Florida Statutes, is amended to read:

627.43141 Notice of change in policy terms.—

(2) A renewal policy may contain a change in policy terms. If such change occurs, the insurer shall give the named insured advance written notice summarizing the change, which may be enclosed in ~~along with~~ the written notice of renewal premium required under ss. 627.4133 and 627.728 or sent separately within the timeframe required under the Florida Insurance Code for the provision of a notice of nonrenewal to the named insured for that line of insurance. The insurer must also provide a sample copy of the notice to the named insured's insurance agent before or at the same time that notice is provided to the named insured. Such notice shall be entitled "Notice of Change in Policy Terms~~.~~" and shall be in bold type of not less than 14 points and included as a single page within the written notice.

Section 20. Paragraph (a) of subsection (3) of section

627.70152, Florida Statutes, is amended to read:

627.70152 Suits arising under a property insurance policy.—

(3) NOTICE.—

(a) As a condition precedent to filing a suit under a property insurance policy, a claimant must provide the department with written notice of intent to initiate litigation on a form provided by the department. Such notice must be given at least 10 business days before filing suit under the policy, but may not be given before the insurer has made a determination of coverage under s. 627.70131. Notice to the insurer must be provided by the department to the e-mail address designated by the insurer ~~under s. 624.422~~. The notice must state with specificity all of the following information:

1. That the notice is provided pursuant to this section.

2. The alleged acts or omissions of the insurer giving rise to the suit, which may include a denial of coverage.

3. If provided by an attorney or other representative, that a copy of the notice was provided to the claimant.

4. If the notice is provided following a denial of coverage, an estimate of damages, if known.

5. If the notice is provided following acts or omissions by the insurer other than denial of coverage, both of the following:

a. The presuit settlement demand, which must itemize the damages, attorney fees, and costs.

b. The disputed amount.

Documentation to support the information provided in this paragraph may be provided along with the notice to the insurer.

Section 21. Subsection (5) is added to section 631.59, Florida Statutes, to read:

631.59 Duties and powers of department and office; association contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 22. Section 631.6955, Florida Statutes, is created to read:

631.6955 Florida Insurance Guaranty Fund data transfer plan.—

(1) Each insurer that is subject to the Florida Insurance Guaranty Association requirements shall prepare, implement, and maintain a data transfer plan. Upon the occurrence of a company action level event, as described in s. 624.4085, the insurer shall file the data transfer plan with the Commissioner of Insurance Regulation.

(2) The data transfer plan required by subsection (1) must outline specific procedures, actions, and safeguards that, at minimum, include all of the following:

(a) The manner, methods, and formats in which the insurer maintains and preserves its claims and underwriting records.

(b) The process by which the insurer will transfer all of its claims and underwriting records to the department and the association if an order of liquidation is issued pursuant to s. 631.395.

(c) Any other information deemed necessary by the Commissioner of Insurance Regulation.

(3) If the insurer uses a third-party vendor to maintain and preserve its claims and underwriting records, the insurer shall include in its data transfer plan the process by which the third-party vendor will provide the insurer's claims and underwriting records without delay to the department and the association if an order of liquidation is issued pursuant to s. 631.395.

(4) The Commissioner of Insurance Regulation shall review

each data transfer plan submitted pursuant to this section to determine compliance with the requirements of this section and shall consult with the department and the association to confirm that the data transfer plans will integrate with the department's and the association's manner and means of maintaining records received from insurers that are subject to orders of liquidation.

(5) The Commissioner of Insurance Regulation may do all of the following:

(a) Investigate and examine the records and operations of insurers to determine if each insurer has implemented and complied with the data transfer plan requirements of this section.

(b) Direct an insurer to test the processes set forth in its data transfer plan to ensure that the data can be effectively transferred.

(c) Direct an insurer to modify its data transfer plan to comply with the requirements of this section.

(d) Require an insurer to prefund the services required to initiate a data transfer.

(e) Require an insurer to take action to remedy substantial noncompliance with the requirements of this section regarding data transfer plans.

Section 23. Subsection (6) is added to section 631.722, Florida Statutes, to read:

631.722 Powers and duties of department and office; association contracts and purchases.—

(6)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section

which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 24. Subsection (5) is added to section 631.821, Florida Statutes, to read:

631.821 Powers and duties of the department; board contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which

are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The plan must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the board must be made available, upon request, to the department via electronic delivery.

Section 25. Section 631.921, Florida Statutes, is amended to read:

631.921 Department powers; board contracts and purchases.—

(1) The corporation shall be subject to examination by the department. By March 1 of each year, the board of directors shall cause a financial report to be filed with the department

for the immediately preceding calendar year in a form approved by the department.

(2)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 26. Paragraph (b) of subsection (3) of section 633.124, Florida Statutes, is amended to read:

633.124 Penalty for violation of law, rule, or order to cease and desist or for failure to comply with corrective order.—

(3)

(b) A person who initiates a pyrotechnic display within any structure commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1. The structure has a fire protection system installed in compliance with s. 633.334.

2. The owner of the structure has authorized in writing the pyrotechnic display.

3. If the local jurisdiction requires a permit for the use of a pyrotechnic display in an occupied structure, such permit has been obtained and all conditions of the permit complied with or, if the local jurisdiction does not require a permit for the use of a pyrotechnic display in an occupied structure, the person initiating the display has complied with National Fire Protection Association, Inc., Standard 1126, 2021 ~~2001~~ Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 27. Subsection (2) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(2) The State Fire Marshal shall adopt the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code but may not adopt a building, mechanical, accessibility, or plumbing code. The State Fire Marshal shall adopt the current edition of the Life Safety Code, NFPA 101, current editions, by reference. The State Fire Marshal may

modify the selected codes and standards as needed to accommodate the specific needs of the state. Standards or criteria in the selected codes shall be similarly incorporated by reference. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions that address uniform firesafety standards as established in s. 633.206. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions addressing regional and local concerns and variations.

Section 28. Paragraph (b) of subsection (1) of section 633.206, Florida Statutes, is amended to read:

633.206 Uniform firesafety standards.—The Legislature hereby determines that to protect the public health, safety, and welfare it is necessary to provide for firesafety standards governing the construction and utilization of certain buildings and structures. The Legislature further determines that certain buildings or structures, due to their specialized use or to the special characteristics of the person utilizing or occupying these buildings or structures, should be subject to firesafety standards reflecting these special needs as may be appropriate.

(1) The department shall establish uniform firesafety standards that apply to:

(b) All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, mobile food dispensing vehicles, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care

facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, energy storage systems, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority.

In the event there is a dispute between the owners of the buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal's interpretation regarding the uniform firesafety standards shall be considered final agency action.

Section 29. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections of the Florida Insurance Code, and with its charter powers and must comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it secures and maintains contractual liability insurance in accordance with the following:

1. Coverage of 100 percent of the claim exposure is obtained from an insurer or insurers approved by the office, which hold ~~holds~~ a certificate of authority under s. 624.401 to

do business within this state, or secured through ~~a~~ risk retention groups ~~group~~, which are ~~is~~ authorized to do business within this state under s. 627.943 or s. 627.944. Such insurers ~~insurer~~ or risk retention groups ~~group~~ must maintain a surplus as regards policyholders of at least $15 million.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3). The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office with the claims statistics.

6. A policy issued in compliance with this paragraph may

either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

Section 30. Subsection (5) of section 634.081, Florida Statutes, is amended to read:

634.081 Suspension or revocation of license; grounds.—

(5) The office shall suspend or revoke the license of a company if it finds that the ratio of gross written premiums written to net assets exceeds 10 to 1 unless the company has in excess of $750,000 in net assets and is utilizing contractual liability insurance which cedes 100 percent of the service agreement company's claims liabilities to the contractual liability insurers ~~insurer~~ or is utilizing contractual liability insurance which reimburses the service agreement company for 100 percent of its paid claims. However, if a service agreement company has been licensed by the office in excess of 10 years,

is in compliance with all applicable provisions of this part, and has net assets at all times in excess of $3 million that comply with the provisions of part II of chapter 625, such company may not exceed a ratio of gross written premiums written to net assets of 15 to 1.

Section 31. Present subsection (5) of section 634.3077, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsection (3) of that section is amended, to read:

634.3077 Financial requirements.—

(3) An association may ~~shall~~ not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of

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the inability of the association to do so.

(c) The policy may not be canceled or not renewed by ~~either~~ the insurer or the association unless 60 days' written notice thereof has been given to the office by the insurer before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy shall insure all home warranty contracts that were issued while the policy was in effect whether or not the premium has been remitted to the insurer.

(5) An association licensed under this part is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the office with the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be $100 million, and a quarterly written certification to the office that the association or its parent corporation continues to maintain the net worth required under this paragraph.

2. The association's or its parent corporation's Form 10-K,

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Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part.

(b) If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following provisions must be met:

1. The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the office. A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the office written notice at least 90 days before the effective date of the cancellation, termination, or modification and the office approves the request in writing. Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance,

establishing required reserves, or other method allowed under this section. If the association or parent corporation does not demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.

2. The association must maintain at all times net assets of at least $750,000.

Section 32. Section 634.317, Florida Statutes, is amended to read:

634.317 License and appointment required.—No person may solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is licensed and appointed as a sales representative. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensee's employees. An agent or employee of a municipal or county government is exempt from these licensing and appointment requirements.

Section 33. Present subsection (9) of section 648.25, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) and subsection (11) are added to that section, to read:

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

(9) "Referring bail bond agent" is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond,

along with the issuing surety company.

(11) "Transfer bond" means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody, and who is appointed to represent the same surety company issuing the appearance bond as the referring bail bond agent.

Section 34. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from s. 119.07(1) until such investigation is completed or ceases to be active, unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. For the purpose of this section, an investigation is considered active while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the subject or the subject's representative, or to share such information with any law enforcement agency or

other regulatory body.

Section 35. Paragraph (a) of subsection (1) of section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1)(a) A person or entity may not act in the capacity of a bail bond agent or bail bond agency or perform any of the functions, duties, or powers prescribed for bail bond agents or bail bond agencies under this chapter unless that person or entity is qualified, licensed, and appointed as provided in this chapter ~~and employed by a bail bond agency~~.

Section 36. Subsection (1) of section 648.355, Florida Statutes, is amended to read:

648.355 Limited surety agents and professional bail bond agents; qualifications.—

(1) The applicant shall furnish, with the application for license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) ~~and a recent credential-sized, fullface photograph of the applicant~~. The department may not issue a license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 37. Subsection (3) of section 648.43, Florida Statutes, is amended to read:

648.43 Power of attorney; approval by office; filing of copies; notification of transfer bond.—

(3) Every bail bond agent who executes or countersigns a

transfer bond shall indicate in writing on the bond the name, ~~and~~ address, and license number of the referring bail bond agent.

Section 38. Section 717.101, Florida Statutes, is amended to read:

717.101 Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Aggregate" means the amounts reported for owners of unclaimed property of less than $50 or where there is no name for the individual or entity listed on the holder's records, regardless of the amount to be reported.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Audit" means an action or proceeding to examine and verify a person's records, books, accounts, and other documents to ascertain and determine compliance with this chapter.

(4) "Audit agent" means a person with whom the department enters into a contract with to conduct an audit or examination. The term includes an independent contractor of the person and each individual participating in the audit on behalf of the person or contractor.

(5) ~~(3)~~ "Banking organization" means any and all banks, trust companies, private bankers, savings banks, industrial banks, safe-deposit companies, savings and loan associations, credit unions, and investment companies in this state, organized under or subject to the laws of this state or of the United States, including entities organized under 12 U.S.C. s. 611, but does not include Federal Reserve Banks. The term also includes

any corporation, business association, or other organization that:

(a) Is a wholly or partially owned subsidiary of any banking, banking corporation, or bank holding company that performs any or all of the functions of a banking organization; or

(b) Performs functions pursuant to the terms of a contract with any banking organization ~~state or national bank, international banking entity or similar entity, trust company, savings bank, industrial savings bank, land bank, safe-deposit company, private bank, or any organization otherwise defined by law as a bank or banking organization~~.

(6) ~~(4)~~ "Business association" means any for-profit or nonprofit corporation other than a public corporation; joint stock company; investment company; unincorporated association or association of two or more individuals for business purposes, whether or not for profit; partnership; joint venture; limited liability company; sole proprietorship; business trust; trust company; land bank; safe-deposit company; safekeeping depository; financial organization; insurance company; federally chartered entity; utility company; or other business entity, whether or not for profit ~~corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, limited liability company, or association of two or more individuals for business purposes, whether for profit or not for profit~~.

(7) ~~(5)~~ "Claimant" means the person on whose behalf a claim is filed.

(8) "Claimant's representative" means an attorney who is a

member in good standing of The Florida Bar, a certified public accountant licensed in this state, or private investigator who is duly licensed to do business in the state, registered with the department, and authorized by the claimant to claim unclaimed property on the claimant's behalf. The term does not include a person acting in a representative capacity, such as a personal representative, guardian, trustee, or attorney, whose representation is not contingent upon the discovery or location of unclaimed property; provided, however, that any agreement entered into for the purpose of evading s. 717.135 is invalid and unenforceable.

(9) ~~(6)~~ "Credit balance" means an account balance in the customer's favor.

(10) ~~(7)~~ "Department" means the Department of Financial Services.

(11) ~~(8)~~ "Domicile" means the state of incorporation for a corporation; the state of filing for a business association, other than a corporation, whose formation or organization requires a filing with a state; the state of organization for a business association, other than a corporation, whose formation or organization does not require a filing with a state; or the state of home office for a federally charted entity ~~incorporated under the laws of a state, or, for an unincorporated business association, the state where the business association is organized~~.

(12) ~~(9)~~ "Due diligence" means the use of reasonable and prudent methods under particular circumstances to locate apparent owners of inactive accounts using the taxpayer identification number or social security number, if known, which

may include, but are not limited to, using a nationwide database, cross-indexing with other records of the holder, mailing to the last known address unless the last known address is known to be inaccurate, providing written notice as described in this chapter by electronic mail if an apparent owner has elected such delivery, or engaging a licensed agency or company capable of conducting such search and providing updated addresses.

(13) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(14) ~~(10)~~ "Financial organization" means a ~~state or federal~~ savings association, savings and loan association, savings bank, industrial bank, bank, banking organization, trust company, international bank agency, cooperative bank, building and loan association, or credit union.

(15) ~~(11)~~ "Health care provider" means any state-licensed entity that provides and receives payment for health care services. These entities include, but are not limited to, hospitals, outpatient centers, physician practices, and skilled nursing facilities.

(16) ~~(12)~~ "Holder" means:

(a) A person~~, wherever organized or domiciled,~~ who is in possession or control or has custody of property or the rights to property belonging to another; is indebted to another on an obligation; or is obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter; or~~:~~

~~(a) In possession of property belonging to another;~~

(b) A trustee in case of a trust~~; or~~

~~(c) Indebted to another on an obligation~~.

(17)~~(13)~~ "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether for profit or not for profit, which is engaged in providing insurance coverage.

(18)~~(14)~~ "Intangible property" means an item of value that cannot be touched or physically held. The term includes, but is not limited to ~~includes, by way of illustration and not limitation~~:

(a) Moneys, checks, virtual currency, drafts, deposits, interest, dividends, and income.

(b) Credit balances, customer overpayments, security deposits and other instruments as defined by chapter 679, refunds, unpaid wages, unused airline tickets, and unidentified remittances.

(c) Stocks, and other intangible ownership interests in business associations.

(d) Moneys deposited to redeem stocks, bonds, bearer bonds, original issue discount bonds, coupons, and other securities, or to make distributions.

(e) Amounts due and payable under the terms of insurance policies.

(f) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

(19)~~(15)~~ "Last known address" means a description of the

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location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, "last known address" includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(20)~~(16)~~ "Lawful charges" means charges against dormant accounts that are authorized by statute for the purpose of offsetting the costs of maintaining the dormant account.

(21)~~(17)~~ "Managed care payor" means a health care plan that has a defined system of selecting and limiting health care providers as evidenced by a managed care contract with the health care providers. These plans include, but are not limited to, managed care health insurance companies and health maintenance organizations.

(22)~~(18)~~ "Owner" means a person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against property subject to this chapter; a depositor in the case of a deposit; a beneficiary in the case of a trust or a deposit in trust; or a payee in the case of a negotiable instrument or other intangible property ~~a depositor in the case of a deposit, a beneficiary in the case of a trust or a deposit in trust, or a payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative~~.

(23) "Person" means an individual; estate; business

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association; corporation; firm; association; joint adventure; partnership; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(24)~~(19)~~ "Public corporation" means a corporation created by the state, founded and owned in the public interest, supported by public funds, and governed by those deriving their power from the state.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26)~~(20)~~ "Reportable period" means the calendar year ending December 31 of each year.

(27)~~(21)~~ "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States.

(28)~~(22)~~ "Trust instrument" means a trust instrument as defined in s. 736.0103.

~~(23) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether such natural person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.~~

(29) "Unclaimed Property Purchase Agreement" means the form adopted by the department pursuant to s. 717.135 which must be

used, without modification or amendment, by a claimant's representative to purchase unclaimed property from an owner.

(30) "Unclaimed Property Recovery Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to obtain an owner's consent and authority to recover unclaimed property on the owner's behalf.

(31)~~(24)~~ "United States" means any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(32)~~(25)~~ "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(33)(a) "Virtual currency" means digital units of exchange that:

1. Have a centralized repository or administrator;

2. Are decentralized and have no centralized repository or administrator; or

3. May be created or obtained by computing or manufacturing effort.

(b) The term does not include any of the following:

1. Digital units that:

a. Are used solely within online gaming platforms;

b. Have no market or application outside of the online gaming platforms in sub-subparagraph a.;

c. Cannot be converted into, or redeemed for, fiat currency

or virtual currency; and

d. Can or cannot be redeemed for real-world goods, services, discounts, or purchases.

2. Digital units that can be redeemed for:

a. Real-world goods, services, discounts, or purchases as part of a customer affinity or rewards program with the issuer or other designated merchants; or

b. Digital units in another customer affinity or rewards program, but cannot be converted into, or redeemed for, fiat currency or virtual currency.

3. Digital units used as part of prepaid cards.

Section 39. Subsections (3) and (4) are added to section 717.102, Florida Statutes, to read:

717.102 Property presumed unclaimed; general rule.—

(3) A presumption that property is unclaimed is rebutted by an apparent owner's expression of interest in the property. An owner's expression of interest in property includes:

(a) A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(b) An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

(c) Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, with respect to an account, underlying security, or interest in a business association;

(d) Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

(e) A deposit into or withdrawal from an account at a financial organization, excluding an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest, which does not constitute an expression of interest; or

(f) Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.

(4) A deceased owner is incapable of expressing an interest in property.

Section 40. Subsection (5) of section 717.106, Florida Statutes, is amended to read:

717.106 Bank deposits and funds in financial organizations.—

(5) If the documents establishing a deposit described in subsection (1) state the address of a beneficiary of the deposit, and the account has a value of at least $50, notice shall be given to the beneficiary as provided for notice to the apparent owner under s. 717.117(6) ~~s. 717.117(4)~~. This subsection shall apply to accounts opened on or after October 1, 1990.

Section 41. Section 717.1065, Florida Statutes, is created to read:

717.1065 Virtual currency.—

(1) Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity.

(2) A holder may not deduct from the amount of any instrument subject to this section any charges imposed by reason of the failure to present the instrument for encashment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose those charges and does not regularly reverse or otherwise cancel those charges with respect to the instrument.

Section 42. Paragraph (a) of subsection (1) of section 717.1101, Florida Statutes, is amended to read:

717.1101 Unclaimed equity and debt of business associations.—

(1)(a) Stock or other equity interest in a business association is presumed unclaimed on the date of ~~3 years after~~ the earliest of the following:

1. Three years after ~~The date of~~ the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's

continued awareness or interest in the property ~~dividend, stock split, or other distribution unclaimed by the apparent owner~~;

2. Three years after the date of the death of the owner, as evidenced by: ~~The date of a statement of account or other notification or communication that was returned as undeliverable; or~~

a. Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;

b. Receipt by the holder of a copy of the death certificate of the owner;

c. Confirmation by the holder of the owner's death through other means; or

d. Other evidence from which the holder may reasonably conclude that the owner is deceased; or

3. One year after the date on which the holder receives notice under subparagraph 2. if the notice is received 2 years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of 2 years or less ~~The date the holder discontinued mailings, notifications, or communications to the apparent owner~~.

Section 43. Subsection (1) of section 717.112, Florida Statutes, is amended to read:

717.112 Property held by agents and fiduciaries.—

(1) ~~Except as provided in ss. 717.1125 and 733.816,~~ All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person, including property held by an attorney in fact or an agent,

except as provided in ss. 717.1125 and 733.816, is presumed unclaimed unless the owner has within 5 years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

Section 44. Section 717.117, Florida Statutes, is amended to read:

717.117 Report of unclaimed property.—

(1) Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property under this chapter shall report to the department ~~on such forms as the department may prescribe by rule. In lieu of forms, a report identifying 25 or more different apparent owners must be submitted by the holder~~ via electronic medium as the department may prescribe by rule. The report must include:

(a) ~~Except for traveler's checks and money orders,~~ The name, social security number or taxpayer identification number, ~~and~~ date of birth, ~~if known,~~ and last known address~~, if any,~~ of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has a value of $10 ~~$50~~ or more.

(b) For unclaimed funds that ~~which~~ have a value of $10 ~~$50~~ or more held or owing under any life or endowment insurance policy or annuity contract, the identifying information provided in paragraph (a) for both ~~full name, taxpayer identification number or social security number, date of birth, if known, and~~

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~~last known address of~~ the insured or annuitant and ~~of~~ the beneficiary according to records of the insurance company holding or owing the funds.

(c) For all tangible property held in a safe-deposit box or other safekeeping repository, a description of the property and the place where the property is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed.

(d) The nature or type of property, any accounting or ~~and~~ identifying number associated with the property, a ~~if any, or~~ description of the property, and the amount appearing from the records to be due. Items of value under $10 ~~$50~~ each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Any other information the department may prescribe by rule as necessary for the administration of this chapter.

(2) If the total value of all presumed unclaimed property, whether tangible or intangible, held by a person is less than $10, a zero balance report may be filed for that reporting period.

~~(f) Any person or business association or public corporation holding funds presumed unclaimed and having a total value of $10 or less may file a zero balance report for that reporting period. The balance brought forward to the new reporting period is zero.~~

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~~(g) Such other information as the department may prescribe by rule as necessary for the administration of this chapter.~~

(3) ~~(h)~~ Credit balances, customer overpayments, security deposits, and refunds having a value of less than $10 shall not be presumed unclaimed.

(4) ~~(2)~~ If the holder of property presumed unclaimed and subject to custody as unclaimed property is a successor holder or if the holder has changed the holder's name while in possession of the property, the holder shall file with the holder's report all known names and addresses of each prior holder of the property. Compliance with this subsection means the holder exercises reasonable and prudent efforts to determine the names of all prior holders.

(5) ~~(3)~~ The report must be filed before May 1 of each year. The report shall apply to the preceding calendar year. On written request by any person required to file a report, and upon a showing of good cause, the department may extend the reporting date. The department may impose and collect a penalty of $10 per day up to a maximum of $500 for the failure to timely report, if an extension was not provided or if the holder of the property failed ~~the failure~~ to include in a report information required by this chapter which was in the holder's possession at the time of reporting. The penalty shall be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. ~~On written request by any person required to file a report and upon a showing of good cause, the department may postpone the reporting~~

~~date.~~ The department must provide information contained in a report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 45 days after the department determines that the report ~~has been processed and added to the unclaimed property database subsequent to a determination that the report~~ is accurate and acceptable and that the reported property is the same as the remitted property.

(6) ~~(4)~~ Holders of inactive accounts having a value of $50 or more shall use due diligence to locate and notify apparent owners that the entity is holding unclaimed property available for them to recover. Not more than 120 days and not less than 60 days prior to filing the report required by this section, the holder in possession of property presumed unclaimed and subject to custody as unclaimed property under this chapter shall send written notice by first-class United States mail to the apparent owner at the apparent owner's last known address from the holder's records or from other available sources, or via electronic mail if the apparent owner has elected this method of delivery, informing the apparent owner that the holder is in possession of property subject to this chapter, if the holder has in its records a mailing or electronic ~~an~~ address for the apparent owner which the holder's records do not disclose to be inaccurate. These two means of contact are not mutually exclusive; if the mailing address is determined to be inaccurate, electronic mail may be used if so elected by the apparent owner.

(7) The written notice to the apparent owner required under

this section must:

(a) Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before (insert date that is 30 days after the date of notice)."

(b) Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice.

(c) State that the property will be turned over to the custody of the department if no response is received within 30 days after the date of the notice.

(d) State that any property that is not legal tender of the United States may be sold or liquidated by the department.

(e) State that after the property is turned over to the department, an apparent owner seeking return of the property may file a claim with the department.

(f) State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the department.

(8)~~(5)~~ Any holder of intangible property may file with the department a petition for determination that the property is unclaimed requesting the department to accept custody of the property. The petition shall state any special circumstances that exist, contain the information required by subsection (4)~~(2)~~, and show that a diligent search has been made to locate the owner. If the department finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118

and accept custody of the property.

(9)~~(6)~~ Upon written request by any entity or person required to file a report, stating such entity's or person's justification for such action, the department may place that entity or person in an inactive status as an unclaimed property "holder."

(10)~~(7)~~(a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 or that are exempt from ad valorem taxation pursuant to s. 196.2002.

(b) This section does not apply to intangible property held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of such property does not have any obligation to report, to pay, or to deliver such property to the department.

(c) This section does not apply to credit balances, overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care contract, provided that the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.

(11)~~(8)~~(a) As used in this subsection, the term "property identifier" means the descriptor used by the holder to identify the unclaimed property.

(b) Social security numbers and property identifiers contained in reports required under this section, held by the department, are confidential and exempt from s. 119.07(1) and s.

24(a), Art. I of the State Constitution.

(c) This exemption applies to social security numbers and property identifiers held by the department before, on, or after the effective date of this exemption.

Section 45. Present subsections (4), (5), and (6) of section 717.119, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, and a new subsection (4) and subsection (8) are added to that section, to read:

717.119 Payment or delivery of unclaimed property.—

(4) All virtual currency reported under this chapter on the annual report filing required in s. 717.117 shall be remitted to the department with the report. The holder shall liquidate the virtual currency and remit the proceeds to the department. The liquidation must occur within 30 days before the filing of the report. Upon delivery of the virtual currency proceeds to the department, the holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person for any losses or damages resulting to the person by the delivery to the department of the virtual currency proceeds.

(8) A holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder.

(a) Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligation to report, pay, or deliver

property or to comply with the duties of this chapter regarding the transfer of property owed to the holder's successor and being held for an owner resulting from the merger, consolidation, or acquisition.

(b) This subsection does not prohibit a holder from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible to the department for the complete, accurate, and timely reporting of the property.

Section 46. Section 717.1201, Florida Statutes, is amended to read:

717.1201 Custody by state; holder ~~relieved from~~ liability; reimbursement of holder paying claim; reclaiming for owner; ~~defense of holder;~~ payment of safe-deposit box or repository charges.—

(1) Upon the good faith payment or delivery of property to the department, the state assumes custody and responsibility for the safekeeping of property. Any person who pays or delivers property to the department in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(a) A holder's substantial compliance with s. 717.117(4) and good faith payment or delivery of property to the department terminates any legal relationship between the holder and the owner with respect to the property reported and releases and discharges the holder from any and all liability to the owner, the owner's heirs, personal representatives, successors, or assigns by reason of such payment or delivery, regardless of

whether such property is in fact and in law abandoned property, and such delivery and payment may be plead as a bar to recovery and are a conclusive defense in any suit or action brought by the owner, the owner's heirs, personal representatives, successors, and assigns or any claimant against the holder by reason of such delivery or payment.

(b) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

(2) For the purposes of this section, a payment or delivery of property is made in good faith if:

(a) The payment or delivery was made in conjunction with an accurate and acceptable report.

(b) The payment or delivery was made in a reasonable attempt to comply with this chapter.

(c) The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter.

(d) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(3) ~~(2)~~ Any holder who has paid money to the department pursuant to this chapter may make payment to any person

appearing to be entitled to payment and, upon filing proof that the payee is entitled thereto, the department shall forthwith repay the holder without deduction of any fee or other charges. If repayment is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be repaid under this subsection upon filing proof that the instrument was duly presented and that the payee is entitled to payment. The holder shall be repaid for payment made under this subsection even if the payment was made to a person whose claim was barred under s. 717.129(1).

(4) ~~(3)~~ Any holder who has delivered property, including a certificate of any interest in a business association, other than money to the department pursuant to this chapter may reclaim the property if still in the possession of the department, without payment of any fee or other charges, upon filing proof that the owner has claimed the property from the holder.

(5) ~~(4)~~ The department may accept an affidavit of the holder stating the facts that entitle the holder to recover money and property under this section as sufficient proof.

~~(5) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.~~

~~(6) For the purposes of this section, "good faith" means~~

~~that:~~

~~(a) Payment or delivery was made in a reasonable attempt to comply with this chapter.~~

~~(b) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was unclaimed for the purposes of this chapter.~~

~~(c) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.~~

(6)~~(7)~~ Property removed from a safe-deposit box or other safekeeping repository is received by the department subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The department shall make the reimbursement to the holder out of the proceeds remaining after the deduction of the department's selling cost.

(7) If it appears to the satisfaction of the department that, because of some mistake of fact, error in calculation, or erroneous interpretation of a statute, a person has paid or delivered to the department pursuant to any provision of this chapter any money or other property not required by this chapter to be so paid or delivered, the department may, within 5 years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with this chapter.

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Section 47. Subsection (1) of section 717.123, Florida Statutes, is amended to read:

717.123 Deposit of funds.—

(1) All funds received under this chapter, including the proceeds from the sale of unclaimed property under s. 717.122, shall forthwith be deposited by the department in the Unclaimed Property Trust Fund. The department shall retain, from funds received under this chapter, an amount not exceeding $65 ~~$15~~ million from which the department shall make prompt payment of claims allowed by the department and shall pay the costs incurred by the department in administering and enforcing this chapter. All remaining funds received by the department under this chapter shall be deposited by the department into the State School Fund.

Section 48. Section 717.1242, Florida Statutes, is amended to read:

717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.—

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that, pursuant to this chapter ~~s. 717.124~~, the department determines the merits of claims and entitlements to ~~for~~ property paid or delivered to the department under this chapter. Consistent with this legislative intent, any ~~estate or~~ beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeking to

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obtain property paid or delivered to the department under this chapter must file a claim with the department as provided in s. 717.124.

(2) If a beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeks administration of the estate, of which unclaimed property makes up 50 percent or more of the assets, the department shall be considered an interested party and provided with notice of any such proceeding as provided in the Florida Probate Code and the Florida Probate Rules.

(3) ~~(2)~~ If a beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an ~~any~~ estate ~~or heir of an estate~~ seeks or obtains an order from a circuit court sitting in probate directing the department to pay or deliver unclaimed property to any person ~~property paid or delivered to the department under this chapter~~, and the notice required in subsection (2) was not provided or administration of the estate was obtained by fraud or mistake of fact, the party seeking the order ~~estate or heir~~ shall be ordered to pay the department's ~~department~~ reasonable costs and attorney ~~attorney's~~ fees in any proceeding brought by the department to oppose, appeal, or collaterally attack the order if the department is the prevailing party in any such proceeding.

Section 49. Subsection (4) of section 717.1243, Florida Statutes, is amended to read:

717.1243 Small estate accounts.—

(4) This section ~~only~~ applies only if all of the unclaimed

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property held by the department on behalf of the owner has an aggregate value of $20,000 ~~$10,000~~ or less and no probate proceeding is pending.

Section 50. Section 717.1245, Florida Statutes, is amended to read:

717.1245 Garnishment of unclaimed property.—

(1) In addition to the fees, costs, and compensation specified in ss. 77.17 and 77.28, if any person files a petition for writ of garnishment seeking to obtain property paid or delivered to the department under this chapter, the plaintiff ~~petitioner~~ shall be ordered to pay the department reasonable costs and attorney ~~attorney's~~ fees if ~~in~~ any proceeding brought by the department opposes ~~to oppose~~, appeals ~~appeal~~, or collaterally attacks ~~attack~~ the petition or writ and if the department is the prevailing party in any such proceeding.

(2) If a final judgment on the writ is issued in the plaintiff's favor, the plaintiff must still file a claim with the department as provided in s. 717.124.

Section 51. Subsection (2) of section 717.129, Florida Statutes, is amended to read:

717.129 Periods of limitation.—

(2) The department may not commence an ~~No~~ action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property or any other duty of a holder under this chapter ~~may be commenced by the department with respect to any duty of a holder under this chapter~~ more than 10 years after the duty arose. The period of limitation established under this subsection is tolled by the earlier of the department's or audit agent's delivery of a notice that a

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holder is subject to an audit or examination under s. 717.1301 or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Section 52. Section 717.1301, Florida Statutes, is amended to read:

717.1301 Investigations; examinations; subpoenas.—

(1) To carry out the chapter's purpose of protecting the interest of missing owners through the safeguarding of their property and to administer and enforce this chapter, the department may:

(a) Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim.

(b) Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to this chapter to determine whether the person complied with this chapter. Such records may include information to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the department.

(c) Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with this chapter.

(d) Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for examination or audit and that the testimony specified in paragraph (c) be provided.

(e) Bring an action in a court of competent jurisdiction

seeking enforcement of an administrative subpoena issued under this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action.

(f) Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

(2) If a person is subject to reporting property under this chapter, the department may require the person to file a verified report in a form prescribed by the department. The verified report must:

(a) State whether the person is holding property reportable under this chapter;

(b) Describe the property not previously reported, the property about which the department has inquired, or the property that is in dispute as to whether it is reportable under this chapter; and

(c) State the amount or value of the property.

(3) The department may authorize a compliance review of a report for a specified reporting year. The review must be limited to the contents of the report filed, as required by s. 717.117 and subsection (2), and all supporting documents related to the reports. If the review results in a finding of a deficiency in unclaimed property due and payable to the department, the department shall notify the holder in writing of the amount of deficiency within 1 year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the department may seek to enforce the assessment under subsection (1). The department is not required to conduct a review under this section before initiating an audit.

(4) Notwithstanding any other provision of law, in a contract providing for the location or collection of unclaimed property, the department may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The department shall annually report to the Chief Financial Officer the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

~~(1) The department may make investigations and examinations within or outside this state of claims, reports, and other records as it deems necessary to administer and enforce the provisions of this chapter. In such investigations and examinations the department may administer oaths, examine witnesses, issue subpoenas, and otherwise gather evidence. The department may request any person who has not filed a report under s. 717.117 to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.~~

~~(2) Subpoenas for witnesses whose evidence is deemed material to any investigation or examination under this section may be issued by the department under seal of the department, or by any court of competent jurisdiction, commanding such witnesses to appear before the department at a time and place named and to bring such books, records, and documents as may be specified or to submit such books, records, and documents to inspection. Such subpoenas may be served by an authorized representative of the department.~~

~~(3) If any person shall refuse to testify, produce books, records, and documents, or otherwise refuse to obey a subpoena issued under this section, the department may present its petition to a court of competent jurisdiction in or for the county in which such person resides or has its principal place of business, whereupon the court shall issue its rule nisi requiring such person to obey forthwith the subpoena issued by the department or show cause for failing to obey said subpoena. Unless said person shows sufficient cause for failing to obey the subpoena, the court shall forthwith direct such person to obey the same subject to such punishment as the court may direct including, but not limited to, the restraint, by injunction or by appointment of a receiver, of any transfer, pledge, assignment, or other disposition of such person's assets or any concealment, alteration, destruction, or other disposition of subpoenaed books, records, or documents as the court deems appropriate, until such person has fully complied with such subpoena and the department has completed its investigation or examination. The department is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on its calendar. Costs incurred by the department to obtain an order granting, in whole or in part, its petition shall be taxed against the subpoenaed person, and failure to comply with such order shall be a contempt of court.~~

~~(4) Witnesses shall be entitled to the same fees and mileage as they may be entitled by law for attending as witnesses in the circuit court, except where such examination or investigation is held at the place of business or residence of the witness.~~

(5) The material compiled by the department in an

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

investigation or examination under this chapter is confidential until the investigation or examination is complete. If any such material contains a holder's financial or proprietary information, it may not be disclosed or made public by the department after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Such material may be considered a trade secret and exempt from s. 119.07(1) as provided for in s. 119.0715. The records, data, and information gathered ~~material compiled~~ by the department in an investigation or audit ~~examination~~ under this chapter remain ~~remains~~ confidential ~~after the department's investigation or examination is complete~~ if the department has submitted the material or any part of it to any law enforcement agency or other administrative agency for further investigation or for the filing of a criminal or civil prosecution and such investigation has not been completed or become inactive.

(6) If an investigation or an audit ~~examination~~ of the records of any person results in the disclosure of property reportable and deliverable under this chapter, the department may assess the cost of the investigation or audit ~~the examination~~ against the holder ~~at the rate of $100 per 8-hour day for each investigator or examiner~~. ~~Such fee shall be calculated on an hourly basis and shall be rounded to the nearest hour. The person shall also pay the travel expense and per diem subsistence allowance provided for state employees in s. 112.061. The person shall not be required to pay a per diem fee and expenses of an examination or investigation which shall~~

~~consume more than 30 worker-days in any one year unless such examination or investigation is due to fraudulent practices of the person, in which case such person shall be required to pay the entire cost regardless of time consumed.~~ The fee for the costs of the investigation or audit shall be remitted to the department within 30 days after the date of the notification that the fee is due and owing. Any person who fails to pay the fee within 30 days after the date of the notification that the fee is due and owing shall pay to the department interest at the rate of 12 percent per annum on such fee from the date of the notification.

Section 53. Subsection (1) of section 717.1311, Florida Statutes, is amended to read:

717.1311 Retention of records.—

(1) Every holder required to file a report under s. 717.117 shall maintain a record of the specific type of property, amount, name, and last known address of the owner for 10 ~~5~~ years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (2) or by rule of the department.

Section 54. Paragraph (j) of subsection (1) and subsection (3) of section 717.1322, Florida Statutes, are amended to read:

717.1322 Administrative and civil enforcement.—

(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a

person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement to file a claim for unclaimed property owned by another, ~~or a contract or agreement to purchase unclaimed property,~~ unless such person is registered with the department under this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This paragraph does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

(3) A claimant's representative ~~registrant~~ is subject to civil enforcement and the disciplinary actions specified in subsection (2) for violations of subsection (1) by an agent or employee of the registrant's employer if the claimant's representative ~~registrant~~ knew or should have known that such agent or employee was violating any provision of this chapter.

Section 55. Subsection (1) of section 717.1333, Florida Statutes, is amended to read:

717.1333 Evidence; estimations; audit reports and worksheets, investigator ~~examiner's worksheets, investigative~~ reports and worksheets, other related documents.—

(1) In any proceeding involving a holder under ss. 120.569 and 120.57 in which an audit agent ~~auditor, examiner,~~ or investigator acting under authority of this chapter is available for cross-examination, any official written report, worksheet, or other related paper, or copy thereof, compiled, prepared, drafted, or otherwise made or received by the audit agent ~~auditor, examiner,~~ or investigator, after being duly authenticated by the audit agent ~~auditor, examiner,~~ or investigator, may be admitted as competent evidence upon the oath of the audit agent ~~auditor, examiner,~~ or investigator that the report, worksheet, or related paper was prepared or received as a result of an audit, examination, or investigation of the books and records of the person audited, examined, or investigated, or the agent thereof.

Section 56. Subsections (1) and (2) of section 717.134, Florida Statutes, are amended to read:

717.134 Penalties and interest.—

(1) For any person who willfully fails to render any report required under this chapter, the department may impose and collect a penalty of $500 per day up to a maximum of $5,000 and 25 percent of the value of property not reported until an appropriate ~~a~~ report is provided ~~rendered for any person who willfully fails to render any report required under this chapter~~. Upon a holder's showing of good cause, the department may waive said penalty or any portion thereof. If the holder acted in good faith and without negligence, the department shall

waive the penalty provided herein.

(2) For any person who willfully refuses to pay or deliver unclaimed property to the department as required under this chapter, the department may impose and collect a penalty of $500 per day up to a maximum of $5,000 and 25 percent of the value of property not paid or delivered until the property is paid or delivered ~~for any person who willfully refuses to pay or deliver abandoned property to the department as required under this chapter~~.

Section 57. Section 717.135, Florida Statutes, is amended to read:

717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative or a purchaser; fees and costs, or total net gain.—

(1) In order to protect the interests of owners of unclaimed property, the department shall adopt by rule a form entitled "Unclaimed Property Recovery Agreement" and a form entitled "Unclaimed Property Purchase Agreement."

(2) The Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must include and disclose all of the following:

(a) The total dollar amount of unclaimed property accounts claimed or sold.

(b) The total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the purchaser ~~purchasing claimant's representative~~.

(c) The total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's

representative or the total net dollar amount to be received by the purchaser ~~purchasing claimant's representative~~.

(d) The net dollar amount to be received by the claimant or the seller.

(e) For each account claimed, the unclaimed property account number.

(f) For the Unclaimed Property Purchase Agreement, a statement that the amount of the purchase price will be remitted to the seller by the purchaser within 30 days after the execution of the agreement by the seller.

(g) The name, address, e-mail address, phone number, and license number of the claimant's representative, or the name, address, e-mail address, and phone number of the purchaser.

(h)1. The manual signature of the claimant or seller and the date signed, affixed on the agreement by the claimant or seller.

2. Notwithstanding any other provision of this chapter to the contrary, the department may allow an apparent owner, who is also the claimant or seller, to sign the agreement electronically ~~for claims of $2,000 or less~~. All electronic signatures on the Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must be affixed on the agreement by the claimant or seller using the specific, exclusive eSignature product and protocol authorized by the department.

(i) The social security number or taxpayer identification number of the claimant or seller, if a number has been issued to the claimant or seller.

(j) The total fees and costs, or the total discount in the

case of a purchase agreement, which may not exceed 30 percent of the claimed amount. In the case of a recovery agreement, if the total fees and costs exceed 30 percent, the fees and costs shall be reduced to 30 percent and the net balance shall be remitted directly by the department to the claimant. In the case of a purchase agreement, if the total net gain of the purchaser exceeds 30 percent, the claim will be denied.

(3) For an Unclaimed Property Purchase Agreement form, proof that the purchaser has made payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

(4) A claimant's representative or a purchaser must use the Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase Agreement as the exclusive means of entering into an agreement or a contract with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to, or received by, a claimant's representative or a purchaser only after a filed claim has been approved and if the claimant's representative used an agreement authorized by this section.

(6) A claimant's representative or a purchaser may not use or distribute any other agreement of any type, conveyed by any method, with respect to the claimant or seller which relates, directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement, authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative or a purchaser is subject to administrative and civil enforcement

under s. 717.1322 if he or she uses an agreement that is not authorized by this section and if the agreement is used to apply, directly or indirectly, to unclaimed property held by this state. This subsection does not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.

(7) The Unclaimed Property Recovery Agreement ~~and the Unclaimed Property Purchase Agreement~~ may not contain language that makes the agreement irrevocable or that creates an assignment of any portion of unclaimed property held by the department.

(8) When a claim is approved, the department may pay any additional account that is owned by the claimant but has not been claimed at the time of approval, provided that a subsequent claim has not been filed or is not pending for the claimant at the time of approval.

(9) This section does not supersede s. 717.1241.

(10) This section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy trustee appointed to represent a debtor's estate in a bankruptcy proceeding in accordance with the United States Bankruptcy Code.

Section 58. Subsections (1), (2), and (3) of section 717.1400, Florida Statutes, are amended to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a private

investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's firm or employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The business address and telephone number of the applicant's private investigative firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's firm or employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a Florida-certified public accountant must register with the department on

such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a Florida-certified public accountant must provide:

(a) The applicant's Florida Board of Accountancy number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's public accounting firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the Florida-certified public accountant, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the accountant's public accounting firm employer.

(3) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, an attorney licensed to practice in this state must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, such attorney must provide:

(a) The applicant's Florida Bar number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the attorney, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the attorney's firm or employer.

Section 59. Paragraph (a) of subsection (2) of section 197.582, Florida Statutes, is amended to read:

197.582 Disbursement of proceeds of sale.—

(2)(a) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the surplus must be paid over and disbursed by the clerk as set forth in subsections (3), (5), and (6). If the opening bid included the homestead assessment pursuant to s. 197.502(6)(c), that amount must be treated as surplus and distributed in the same manner. The clerk shall distribute the surplus to the governmental units for the payment of any lien of record held by a governmental unit against the property, including any tax certificates not

incorporated in the tax deed application and omitted taxes, if any. If there remains a balance of undistributed funds, the balance must be retained by the clerk for the benefit of persons described in s. 197.522(1)(a), except those persons described in s. 197.502(4)(h), as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit at the addresses provided in s. 197.502(4). Such notice constitutes compliance with the requirements of s. 717.117(6) ~~s. 717.117(4)~~. Any service charges and costs of mailing notices shall be paid out of the excess balance held by the clerk. Notice must be provided in substantially the following form:

NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

CLERK OF COURT

.... COUNTY, FLORIDA

Tax Deed #.....

Certificate #.....

Property Description: .....

Pursuant to chapter 197, Florida Statutes, the above property was sold at public sale on ...(date of sale)..., and a surplus of $...(amount)... (subject to change) will be held by this office for 120 days beginning on the date of this notice to benefit the persons having an interest in this property as described in section 197.502(4), Florida Statutes, as their interests may appear (except for those persons described in section 197.502(4)(h), Florida Statutes).

To the extent possible, these funds will be used to satisfy in full each claimant with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage

or lien claimant or to the former property owner. To be considered for funds when they are distributed, you must file a notarized statement of claim with this office within 120 days of this notice. If you are a lienholder, your claim must include the particulars of your lien and the amounts currently due. Any lienholder claim that is not filed within the 120-day deadline is barred.

A copy of this notice must be attached to your statement of claim. After the office examines the filed claim statements, it will notify you if you are entitled to any payment.

Dated: .....

Clerk of Court

Section 60. Subsection (1) of section 717.1382, Florida Statutes, is amended to read:

717.1382 United States savings bond; unclaimed property; escheatment; procedure.—

(1) Notwithstanding any other provision of law, a United States savings bond in possession of the department or registered to a person with a last known address in the state, including a bond that is lost, stolen, or destroyed, is presumed abandoned and unclaimed 5 years after the bond reaches maturity and no longer earns interest and shall be reported and remitted to the department by the financial institution or other holder in accordance with ss. 717.117(1) and (5) ~~(3)~~ and 717.119, if the department is not in possession of the bond.

Section 61. The Division of Law Revision is directed to prepare a reviser's bill for the 2025 Regular Session of the Legislature to change the term "Division of Investigative and Forensic Services" wherever the term appears in the Florida

Statutes to "Division of Criminal Investigations."

Section 62. This act shall take effect upon becoming a law.

Department of Financial Services (DFS)
2024 Legislative Bill Analysis

BILL INFORMATION

Bill Number:	SB 1098
Bill Title:	Department of Financial Services
Bill Sponsor:	Senator DiCeglie
Effective Date:	Upon becoming a law

ANALYSIS INFORMATION

Agency Contact:	Chase Mitchell, Director of Legislative Affairs and Policy, (850) 413-2866
Analysis Date:	December 28, 2023

POLICY ANALYSIS

I. SUMMARY ANALYSIS

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the state's chief fiscal officer, and is designated as the State Fire Marshal. The CFO is the head of the Department of Financial Services (DFS). The bill renames the Division of Investigative and Forensic Services (to Division of Criminal Investigations) and merges the existing Division of Public Assistance Fraud into a bureau within the Division of Criminal Investigations. The administration of the My Safe Florida Home Program is improved by changes provided. Boards that are solely appointed by the CFO will be the subject of provisions that are best practices for procurement of goods and services. The bill provides that Board of Funeral, Cemetery and Consumer Services will be appointed by the CFO. The bill provides an enhanced level of communication between the Department and insurers by creating a requirement for insurers to provide contact information for escalated complaints. The bill provides consumer protections by ensuring that unlicensed adjusters are not impacting insurance claims processes in a negative way and highlighting changes in policy terms at the time of a policy renewal. The bill improves the process by which the Division of Rehabilitation and Liquidation takes over data from an insolvent company.

The bill allows the Department to establish uniform firesafety standards for mobile food dispensing vehicles and energy storage systems, makes clarifying changes to Florida Statutes related to the bail bond industry, and addresses outdated definitions and processes to enhance processes in the claiming of unclaimed property, while retaining consumer protections and working toward the continued goals of informing Floridians of their unclaimed property and remitting said property in the most efficient way possible.

II. PRESENT SITUATION

Department of Financial Services

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the state's chief fiscal officer, and is designated as the State Fire Marshal. The CFO is the head of the Department of Financial Services (DFS). Effective January 2003, the Department of Insurance, Treasury, State Fire Marshal, and the Department of Banking and Finance merged to form DFS. DFS consists of the following divisions and specialized offices:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;

- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property;
- Workers' Compensation;
- Administration; and the
- Office of Insurance Consumer Advocate.

Division of Consumer Services

The Division is responsible for receiving inquiries and complaints from consumers regarding or against persons licensed or issued a certificate of authority by the department or the Office of Insurance Regulation (OIR). These regulated industries are required to respond, in writing or electronically, to the division within 14 days after receipt of a written request for documents and information from the division concerning consumer complaint. While most regulated insurance companies have designated an individual to receive and respond to insurance complaints, other regulated insurance companies either have not or have outdated contact information. Urgent complaints are matters that involve immediate risk to consumer's health, shelter, and well-being. These need to be addressed within 14 days. Surplus line carriers are not currently required to respond to inquires and complaints received by DFS.

Division of Public Assistance Fraud

The Division is charged with the investigation of all fraud involving public assistance provided to residents of the state of Florida or provided to others by the state of Florida. Pursuant to Section 414.411, F.S., PAF investigates fraud among the following programs: Supplemental Nutrition Assistance Program (SNAP), Temporary Cash Assistance (TCA) programs, Medicaid eligibility, School Readiness and VPK, and Disability. Since July 1, 2021, PAF has functioned as a "criminal justice agency" pursuant to Section 20.121, F.S. Although PAF conducts criminal investigations, its members are non-sworn and sometimes require the assistance of law enforcement for safety when in the field conducting investigations.

Division of Investigative and Forensic Services

The Division of Investigative and Forensic Services investigates various types of insurance fraud, including Personal Injury Protection fraud, workers' compensation fraud, vehicle fraud, application fraud, licensee fraud, homeowner's insurance fraud, and healthcare fraud. The Division is directed by statute to investigate fraudulent insurance acts, violations of the Unfair Insurance Trade Practices Act, false and fraudulent insurance claims, and willful violations of the Florida Insurance Code and rules adopted pursuant to the code. The Division employs sworn law enforcement officers to investigate insurance fraud.

My Safe Florida Home Program

The program provides home inspections to homeowners of single-family, site-built, residential properties whose properties have a current homestead exemption on record. The home inspections provide information to the homeowner on areas of their home which either already have wind mitigation features or those areas of the home which could be improved to better withstand damaging winds from a storm. After the completion of a home inspection, current law outlines that the homeowner may apply for a mitigation grant, assuming the home is insured for less than $700,000 and was constructed prior to January 1, 2008. Grants are awarded on first come, first serve bases and are either awarded as a matching grant (a $2 to $1 match of state funds to homeowner funds) or in the case of low-income homeowners can be a lump-sum grant of up to $10,000 per homeowner. The statute provides that DFS can contract with private sector entities to provide for the home inspections as well as grants management, information technology, outreach, and other services. DFS is also required to provide homeowners with a list of contractors willing to participate in the program.

Salary Indemnification Report

Section 284.44(6), F.S., requires DFS to prepare a quarterly salary indemnification report that lists the amount of temporary total disability (TTD) indemnity benefits paid by DFS for each agency and the total amount of reimbursements from state agencies paid to the Division of Risk Management for the previous quarter. This report is required to be distributed to the Executive Office of the Governor and the chairs of the legislative appropriations committees.

Division of Workers' Compensation

Florida's Workers' Compensation Law requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require. The Department of Financial Services, Division of Workers' Compensation (DWC), provides regulatory oversight of Florida's workers' compensation system, including the workers' compensation health care delivery system. The law specifies certain reimbursement formulas and methodologies to compensate workers' compensation health care providers that provide medical services to injured employees. Where a reimbursement amount or methodology is not specifically included in statute, the Three-Member Panel is authorized to annually adopt statewide schedules of maximum reimbursement allowances (MRAs) to provide uniform fee schedules for the reimbursement of various medical services. DFS incorporates the MRAs approved by the Three-Member Panel in reimbursement manuals through the rulemaking process provided by the Administrative Procedures Act.

Division of Funeral, Cemetery and Consumer Services

Section 497.101, Florida Statutes, provides the process of appointing board members to the Board of Funeral, Cemetery, and Consumer Services (the "Board"). These board members primarily come from various aspects of the deathcare industry. Two members must be funeral directors associated with a funeral home. One member must be a funeral director who is associated with a funeral home that is also licensed as a crematory and licensed to sell preneed contracts. Two members must be associated with a licensed cemetery. One member must be a principal of a monument establishment licensed as a monument builder. There are three consumer members who have no affiliation with the death care industry, one of whom must be at least 60, and one who must be a licensed CPA. The tenth member must be the State Health Officer (Department of Health), or their designee. The board members are appointed for a period of four years. There is no time limit as to how often the board members may be appointed.

Currently the Governor is responsible for appointing board members based upon one to three nominations from the Chief Financial Officer (CFO). The Governor may reject the CFO's recommendations and require additional recommendations for appointment of board members. The statute does not provide a time limitation for this process, and the recommendations and rejection of the recommendations may be unlimited.

Once a candidate is selected, the board member candidate must be confirmed by the Senate, which may only happen during legislative session. The Senate has the option to appoint the board member. As a result of these steps, the process of appointing a board member may take substantial time. Currently, board members may be removed for several reasons, but it is only the Governor who may suspend and then only the Senate remove the member.

Chapter 497 currently contains no requirement regarding board members being subject to the code of ethics found in Chapter 112. Additionally, the Chapter contains only limited reference to the public nature of board meetings or the timeline requirements that must be followed for publications of a board agenda.

Section 497.153, F.S. currently provides two means of effectuating service of an administrative complaint: in-person or by certified mail, returned receipt requested. Section 120.60, F.S., which concerns all regulatory licensing, provides that, to revoke, suspend, annul, or withdraw a license, an administrative complaint may be served in three steps: personal service, certified mail, and, if neither of these steps is effective, service by publication in a local newspaper. These processes may take an exceptional period of time. The reason for that is: to serve a complaint by certified mail, the Department needs to wait until notice is received from the U.S. postal service that service was not effectuated in this

matter as no return receipt was generated. It is only after receiving that notice from the postal service that personal service of process is attempted. Personal service of process may be costly and, as a result, certified mail, which is less costly, is the first step. The process of attempting to serve a complaint by personal service is cumbersome due to the cost and the time it takes. The Office of the General Counsel currently uses a service processing company to effect personal service. Service will typically be attempted for about a month, and, if unsuccessful, it is only then that the OGC receives notice that personal service was ineffectual. The last step is publication in a local newspaper which is often cumbersome due to cost and time. Publication may cost thousands of dollars, which must be paid before publication. The payment itself must be coordinated and multiple staff members are used to complete this process. Florida statutes require that notice in a newspaper must be published for four weeks.

Section 497.155, F.S., provides the Board the opportunity to adopt rules permitting citations in sanctioning minor violations. Service of citations is handled the same way as service of administrative complaints. The Division rarely uses citations. In fact, citations may have been used, at most, a handful of times since 2017.

Division of Consumer Services

Currently, the Division of Consumer Services is responsible for receiving inquiries and complaints from consumers regarding or against persons licensed or issued a certificate of authority by the department or the Office of Insurance Regulation (OIR). These regulated entities are required to respond, in writing or electronically, to the division within 14 days after receipt of a written request for documents and information from the division concerning a consumer complaint. Surplus lines carriers are currently not required to respond to inquiries and complaints received by the department. While most regulated insurance companies have designated an individual to receive and respond to insurance complaints, other regulated insurance companies either have not or have outdated contact information. Furthermore, many of the regulated insurance companies, agencies and agents have a general contact filed with the department who is not the most responsive to urgent complaints. Urgent complaints are matters that involve immediate risks to a consumer's health, shelter, or wellbeing. These need to be addressed in less than 14 days.

Currently an insurer must issue a notice titled "Notice of Change in Policy Terms" whenever sending a renewal notice that contains a change in the terms of the current policy. If this notice is not apparent to the consumer, they may not realize critical changes to their coverage.

The Civil Remedy and property insurance Notice of Intent to Litigate statutes currently require notices to be sent to an email that is filed for the purpose of Service of Process; however, the Civil Remedy and Notice of Intent to Litigate systems aren't tied to the Service of Process system, and these processes aren't handled under the same division within the department. Additionally, there are many insurers that want their notices for Civil Remedy and/or Notice of Intent to Litigate to be sent to a different email address than the email address that receives Service of Process items. The department currently allows these parties to use a different contact as long as they email the department to provide that additional contact information.

Division of Agent & Agency

Applicants are not provided with an opportunity to provide their mobile phone numbers for a two-factor authentication. The Department is limited as to what parts of an insurance or bail bond licensee investigation may be discussed with the subject of that investigation. Adjusters do not have to disclose the type of adjuster appointment they hold when advertising or soliciting for their services. Revoked and suspended licensees are not specifically prevented from participating in the appraisal process of a claim. Current statutes require a bail bond agency to be employed by a bail bond agency. Applicants for a limited surety (bail bond) license or a professional bail bond license must provide a photo with their application, and another photo is taken to be used on the license when they pass the license exam. Transfer bonds do not include the license number of the writing or executing bail bond agent.

Division of Rehabilitation and Liquidation

Currently there is no requirement for an insurer to have a plan to transfer data should the company be liquidated, and the Department appointed as Receiver pursuant to Chapter 631, Part I, Florida Statutes.

As company claims and policy data has moved from paper to electronic, the DRL has had increasing difficulty in timely acquiring, ingesting into its systems, and transmitting the claims and policy data of the insurance companies in receivership. The issues are multi-factorial but generally involve the following: data housed and serviced by numerous third-party vendors; IT vendor contracts between affiliates of insurance company and IT vendor with no recognition of rights of company/receiver to the data; large accounts receivables due to IT vendors by affiliates; commingling of data amongst insurance company and affiliates; and software licenses held by affiliates of insurance company. These issues have led to inordinate delays in the Department as Receiver being able to retrieve the necessary data to complete its duties and share the necessary data with the various guaranty associations.

Division of State Fire Marshal

Currently, the National Fire Protection Association, Inc., Standard 1126, adopted edition is 2001, which is dated. The DSFM does not adopt the accessibility code and the statute is silent regarding the DSFM's limitation to adopt. As it relates to uniform firesafety standards; they are are needed, although not presently established, for mobile food dispensing vehicles and energy storage systems.

Division of Unclaimed Property

Current statute includes 1961 era definitions, many of which are outdated, and it omits altogether definitions applicable to modern business and consumer practices. It also does not account for new property types, technology advancements, electronic communications and changing preferences of how consumers handle financial accounts.

Sections 717.102 and 717.105-717.116 provides general direction that when an owner fails to utilize, recover, or show interest in a financial account for a designated period of time it triggers a presumption that the property is unclaimed. The law is vague on what constitutes owner activity or interest in a financial account. While the law includes virtual currency in its general umbrella provisions as unclaimed property, it does not specifically address it. The newly emerging issue of virtual currency and its uniqueness provides challenges that should be specifically addressed.

The dormancy triggers for securities types of unclaimed property have been in place since 1961, including the most relied-upon trigger of returned mail. According to a recent report by Forbes, more than 72% of consumers primarily or exclusively conduct their financial affairs electronically – no returned mail, meaning the dormancy trigger of returned mail never occurs and consumers are at high risk of being denied knowledge of, or the opportunity to recover those types of assets.

If the total value of all unclaimed property being reported is $10 or less, the holder may file a zero report, but it is vague and needs clarification. The "due diligence" dormancy notification to account owners by the holder only references postal mail and needs to also incorporate electronic communications. The department may impose a penalty of $10 per day, up to a maximum of $500, for a holder's failure to file annual reports when due, or the failure to include required owner information. Clarification is needed to stipulate required information is information that is in the holder's possession at the time its report. Numerous instances exist where the department has to contact the holder after the fact, and the holder only then provides the necessary, required information that was omitted from the report. This makes it very difficult for many claimants to recover their funds, until the department follows up, and causes significant loss of efficiencies for the department and the holders involved.

The proposed bill addresses the state's custody of unclaimed funds, relieves holders of liability when reporting in "good faith," and provides relief to holders for errors, as well as reimbursement for payments made directly to owners. The law is vague regarding "good faith" and the process by which holders can request reimbursement.

The department is currently limited to a maximum of $15 million at any given time in the Unclaimed Property Trust Fund from which claims and administrative costs are paid. This is inadequate as the division averages more than $35 million each month in claims payments.

The statute provides circuit courts have jurisdiction in the settlement of estates. Numerous instances have occurred in which probate court orders submitted by claimants were based on pleadings or motions with inaccurate, misleading, or false information. These situations are often a great hindrance to the department's duty and authority to make determinations on claims.

In the absence of a will or probate court order, the lineal heirs-at-law of a deceased owner, if they all agree in writing among themselves as to the division of the unclaimed funds, may provide an affidavit signed by all for claiming unclaimed property amounts up to $10,000. The current statute does not adequately enumerate that plaintiffs in garnishment cases must still first file a claim with the department.

Currently, **t**he department may not commence an enforcement "action or proceeding" with respect to any duty required of a holder more than 10 years after the duty arose. However, the law does not explicitly provide that notice to the holder of an audit, action or proceeding tolls the period of limitation at that date. The provisions granting the department authority to perform examinations, as well as their scope, is vague in current form – clarifications are needed.

The outdated requirement that holders maintain records for five years is misaligned with the department's authority and duty to conduct investigations and examinations that cover a ten-year period.

Revisions and updates are needed to clarify acts or omissions that constitute violations and grounds for administrative enforcement actions by the department. Currently only licensed, registered claimant's representatives can purchase an unclaimed property account from its owner.

III. EFFECT OF PROPOSED CHANGES

Section 1: Establishes the Division of Public Assistance Fraud as a bureau within the Division of Investigative and Forensic Services, giving both entities increased investigative and operational resources while furthering both entities' missions of investigating fraudulent acts committed in Florida.

Section 2: Reference update from SFM to DIFS for laboratory employees.

Section 3: Clarifies that an applicant is only eligible for one free inspection assuming their first application is approved. If not, homeowners could submit an additional application under defined circumstances. Grant eligibility requirements clarify that the home must be "detached". The same requirements for the inspection related to single applications are also made in the grant application portion of the law.

The requirement for the Department to create and maintain a list of contractors willing to participate in the program is removed. In lieu of the list, homeowners will submit the name and license number of the contractor they wish to use. The Department must verify that the contractor license is valid prior to grant approval. Permissive language regarding the Department's ability to provide grants to local government and nonprofits is removed.

The authorized list of improvements that can be done to a home which qualify for grant reimbursement is modified. The term "opening protection" is clarified to include windows, skylights, exterior doors, and garage doors. The term "secondary water barrier" is modified to read "secondary water resistance barrier" when referring to roofs.

Additional language is added to clarify that homeowners must request a final inspection following construction within 1

year of grant approval or request an extension for an additional 6 months. If homeowners fail to comply, their application is deemed abandoned those funds may be re-awarded to another applicant. Current language is modified regarding the Department's responsibility to provide brochures. The Program currently provides most education information electronically, thereby negating the need for brochures. In addition, the language directs the Department to work with Citizens Property Insurance Corporation to educate its policy holders about the program.

Section 4: Removes the reporting requirements found in section 284.44(6), F.S.

Section 5: Amends section 440.13, F.S., serves to ensure reimbursement to hospitals for outpatient/emergency room care is paid at 75% of the hospital's charge when a maximum reimbursement allowance (MRA) is not available or when a contract is not present.

Section 6: Requires contracts exceeding $100,0000 entered by the Florida Self-insurers Guaranty Association to be approved by the Department. The Department has 10 days to approve or deny the contract. If the Department is nonresponsive, the contract or purchase is automatically approved.

Section 7: Grants the Chief Financial Officer with the sole appointment authority for the Board of Funeral, Cemetery, and Consumer Services. The changes also provide the CFO with the ability to remove board members for misconduct. The appointment time for members is reduced to eight consecutive years. Occupational requirements for the board are also amended. The changes will also clarify that the board members are public officers and subject to the code of ethics within Chapter 112, F.S.

Sections 8 & 9: The effect of the proposed changes to sections 497.153 and 497.15, F.S. will be substantial time and money savings. The language proposed is taken directly from section 624.310, F.S. The cost of service of process by personal delivery and service of process by publication can be substantial, and the timelines for both processes can take months. The opportunity to attempt service by email before the time and money expenditures of other types of process will be very beneficial to the Department and has been successfully used within the Division of Agent and Agency Services.

Section 10: Removes the requirement for civil remedy notices to be sent to specific email addresses designated by the insurer.

Section 11: Requires insurers to provide a designated email to receive and respond to consumer complaints received by the department. Additionally, an insurer must designate and provide relevant contact information to receive and respond to escalated complaints. Licensed insurance agents and agencies are permitted to designate an email address for receiving and responding to insurance-related complaints received by the department.

Section 12: Allows the department to collect telephone numbers during the agent application process as a method of two-factor authorization.

Section 13: Adds Registered Claims Adjuster (RCA) from American Insurance College to the list of applicants who quality for examination exemptions. This adds to the list of applicants for a license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from exam exemption.

Section 14: Amends section 626.601 F.S., to allow DFS to review and discuss complaints obtained by the department with the subject of the complaint and their representative.

Section 15: Amends 626.7351 F.S., by including Chartered Customer Service Representative (CCSR) from American Insurance College to the list of applicants who quality for examination exemptions. This adds to the list of applicants for customer services licenses who are exempt from the Florida licensing examination.

Section 16: Requires any person licensed as an adjuster to identify him or herself in any advertisement, solicitation, or written document. Clarifies that an adjuster who has had their license revoked may not participate in any part of an insurance claim or claims adjusting process.

Section 17: General lines agents write all lines of Property & Casualty Insurance in the admitted insurance market. They can also "broker" surplus lines business through a licensed surplus lines agent. Surplus lines insurance is "non-admitted" insurance that is generally written for risks the admitted market doesn't wish to insure. If a general lines agent, while shopping for coverage in the admitted market can't find a company willing to write it, they will contact a licensed surplus lines agent to try and secure coverage. For example, if someone has an older home that is not up to code, most admitted insurance companies will not write it. In this case, the general lines agent will ask a surplus lines agent if they have an insurer in the non-admitted market that would be willing to insurer the property. Without this, the person would not be able to insure their property.

Surplus lines agents are required to hold a general lines agent license to be eligible for a surplus lines license. If they lose their general lines agent license, they can't sell surplus lines either. This provision will fix a problem for 1 on 3 licensee groups in this equation. For example, some agents are only general lines agents and only sell in the admitted market, with the occasional risk being sent to a surplus lines agent for handling. Other agents are both general lines and surplus lines agents and actively sell products in both markets. The third group are the surplus lines only agents that don't sell coverage in the admitted market at all. Their function is to broker business sent to them by the first group. The problem is that since they aren't writing general lines policies, they must beg general lines insurers for a "courtesy" appointment of their license, knowing they aren't going to sell products for them. This bill allows this third group to add the surplus lines appointment (which is a self-appointment) to their general lines license. This eliminates the need to get an admitted carrier to give the a "courtesy" appointment on their general lines license. In doing so, as written, they preclude themselves from being able to write general lines insurance. However, for a select group of them, this doesn't matter, because they don't write in this market anyway.

Section 18: Provides the Department the ability to approve or deny contracts exceeding $100,0000 entered by the Joint Underwriting Association. The Department has 10 days to approve or deny the contract. If the Department is nonresponsive, the contract or purchase is automatically approved.

Section 19: Requires the notice of a change in policy terms to be summarized on a single page within the written notice to the policyholder, in bolded type of not less than 14 point.

Section 20: The bill removes the requirement for notices of intent to initiate litigation regarding suits under property insurance policy to be sent to specific email addresses designated by the insurer.

Section 21: Provides the Department the ability to approve or deny contracts exceeding $100,0000 entered by the Florida Insurance Guaranty Association (FIGA). The Department has 10 days to approve or deny the contract. If the Department is nonresponsive, the contract or purchase is automatically approved.

Section 22: Creates section 631.6955, F.S., which requires each insurer subject to FIGA requirements to prepare and maintain a data transfer plan for moving policy and premium information to FIGA in the event of the company ordered into liquidation. The data transfer plan is required to be filed with the Commission of Insurance Regulation when a company-action level event occurs.

Section 23: Provides the Department the ability to approve or deny contracts exceeding $100,0000 entered by the Florida Life and Health Insurance Guaranty Association. The Department has 10 days to approve or deny the contract. If the Department is nonresponsive, the contract or purchase is automatically approved.

Section 24: Provides the Department the ability to approve or deny contracts exceeding $100,0000 entered by the Florida Health Maintenance Organization Consumer Assistance Plan. The Department has 10 days to approve or deny the contract. If the Department is nonresponsive, the contract or purchase is automatically approved.

Section 25: Provides the Department the ability to approve or deny contracts exceeding $100,0000 entered by the Florida Workers' Compensation Guaranty Association. The Department has 10 days to approve or deny the contract. If the Department is nonresponsive, the contract or purchase is automatically approved.

Section 26: Updates the specific edition of the National Fire Protection Association, Inc. Standards 1126, from 2001 to 2021.

Section 27: Clarifies the scope of the Florida Fire Prevention Code and eliminates conflict with the Florida Building Code ADA accessibility code.

Section 28: Requires DFS to establish uniform fire safety standards for mobile food dispensing vehicles and energy storage systems.

Section 29: Allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Section 30: The section allows motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Section 31: Amends 634.3077, F.S., to not require home service agreement companies to maintain contractual liability insurance or maintain a ratio of net assets if certain conditions are met.

Section 32: Exempt agents of a municipal or county government from the licensing and appointment requirements set forth in section 634.317, F.S.

Section 33: Creates definitions for "referring bail bond agent" and "transfer bond."

Section 34: Allows the department to review the details of the investigation with the subject or subject's representative.

Section 35: Clarifies that bail bond agents are self-employed and paid through contract, not by means of employment with a bail bond agency.

Section 36: Removes the requirement for a full face photograph to be submitted with a limited surety or bail bond agent's application for license.

Section 37: Adds a requirement for the license number of the referring bail bond agent to be included in a transfer bond.

Section 38: Provides or updates definitions for the following terms within Ch. 717, F.S.: "audit," "audit agent," "banking organization," "business association," "claimant's representative," "domicile," "due diligence," "electronic," "financial organization," "holder," "intangible property," "owner," "person," "record," "unclaimed property purchase agreement," "unclaimed property recovery agreement" and "virtual currency."

Section 39: Clarifies the dormancy period before property is presumed unclaimed and subject to reporting under Ch. 717, F.S.; designates what constitutes an owner's expression of interest.

Section 40: Updates reference for a notice to be provided to the apparent owner when certain criteria are met.

Section 41: Provides the definition for "virtual currency;" establishes a dormancy period and requirements on how the property is to be reported and remitted to the Department.

Section 42: Updates the ways in which apparent owners of unclaimed equity and debt property indicate that they have not lost track of their property. Stock or other equity interest is presumed unclaimed after the earliest of the following:

- Three years after any owner-generated activity;
- Three years after the death of the owner; or
- One year after notice of the owner death is received by the holder.

Section 43: Provides clarity as to the dormancy period and due diligence requirements; formatting changes

Section 44: Requires holders to report owner or account information for unclaimed property valued at less than $10; allows for holders to provide notice to apparent owners via mail or electronic mail; and provides criteria to be included in such notice.

Section 45: Establishes a process for virtual currency to be reported and remitted to the Department; clarifies the obligations of holders and their successors to report and remit unclaimed property.

Section 46: Provides that any legal relationship between holders and owners is terminated if the holder reports and remits unclaimed property in good faith; provides the Department clear authority to refund or return money to a holder that was reported in error.

Section 47: Increases the amount retained in the Unclaimed Property Trust Fund from $15 to $65 million.

Section 48: Solidifies the Department's jurisdiction when determining entitlement to unclaimed property.

Section 49: Increases the threshold for small estate accounts to be accompanied with a signed affidavit from $10,000 to $20,000.

Section 50: Clarifies that plaintiffs must file a claim for unclaimed property.

Section 51: Clarifies that the delivery of the audit notice tolls the period of limitation for the Department to audit holders.

Section 52: Clarifies that contract auditors are allowed to deduct their fees from the property recovered or collected under contract; clarifies that confidential information, including holder's financial or proprietary information, may not be disclosed unless required by a court during a judicial proceeding.

Section 53: Increases the duration for holders to retain records of unclaimed property from 5 to 10 years; reflects the audit durations of the Department

Section 54: Updates section 717.1322, F.S., to allow anyone to purchase unclaimed property if the requirements in section 717.135, F.S. are met.

Section 55: Conforming changes from updating the definition of "audit agent."

Section 56: No substantive changes made. The section makes formatting changes.

Section 57: Allows for anyone to purchase unclaimed property; requires relevant contact information for the purchaser

of unclaimed property to be provided in the Unclaimed Property Recovery Agreement; removes the $2,000 threshold for electronic signature of the Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement.

Section 58: Conforming changes for allowing anyone to purchase unclaimed property if the requirements in section 717.135, F.S., are met.

Section 59: Conforming change for clerks notifying persons of funds held for their benefit.

Section 60: Conforming change for the reporting of dormant savings bonds.

Section 61: Directs the Division of Law Revision to replace "Division of Investigative and Forensic Services" with "Division of Criminal Investigations" within Florida Statutes.

Section 62: Effective Date: This act shall take effect upon becoming a law.

IV. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? **Y☐ N☐**

If yes, explain:	As it pertains to the Division of Consumer Services, the department is provided rulemaking authority to clarify the process for an insurance company, agency, or agent to submit and update their designated contact for receiving and responding to consumer complaints. The DSFM establishes uniform firesafety standards by rule. The changes will require rule amendments and adoptions.
Is the change consistent with the agency's core mission?	**Y☒ N☐**
Rule(s) impacted (provide references to F.A.C.):	Rules 69A-3 and 69A-60, F.A.C.

V. DOES THE BILL REQUIRE REPORTS OR STUDIES? **Y☐ N☐**

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

VI. DOES THE BILL REQUIRE APPOINTMENTS OR MODIFY EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC.? **Y☐ N☐**

Board:	Funeral, Cemetery, and Consumer Services
Board Purpose:	Regulation of Florida's deathcare industry
Who Appoints:	Governor with Senate confirmation

Changes:	The CFO will be responsible for appointing nine of the board members. The board members will be subject to the Code of Ethics in Chapter 112. The proposed changes provide confirmation of the public nature and time limitations regarding board agendas.
Bill Section Number(s):	7-9

FISCAL ANALYSIS

I. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? **Y☐ N☐**

Revenues:	
Expenditures:	

II. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? **Y☐ N☐**

Revenues:	Because of the very high amounts of funds disbursed to claimants by the Division of Unclaimed Property, the department desires to increase the current, very low retention amount in the Unclaimed Property trust fund from which claims are paid and the UP program operates. The division averages $35 million per month in claims payments, paid from an account limited to $15 million at any given time. Amounts above the retention amount are transferred to the State School Trust Fund. Once the department transfers funds, the DOE does not send them back. The division relies on large loans throughout the fiscal year to pay claims and operate. In the spring-time months when new annual remittances are made by holders of UP to the division (new accounts received and associated funds), those loans taken throughout the year must be repaid before the end of the fiscal year, and prior to any additional funds being transferred to the SSTF. In the end, the SSTF will receive the same net amount, regardless of the retention limit in the UPTF. It is only a matter of when and how much the SSTF receives at any given time during the course of the fiscal year. The legislature temporarily inserted in the current year appropriations act, an increased retention limit of $65 million. The department desires and needs to make that permanent. It is also the current year's manner in which the two agencies are sharing this cooperative practice (already the practice this year).
Expenditures:	Sections 8-9: The Department is expected to save money as to the cost of serving administrative complaints and citations upon funeral licensees. Section 42 may have small impact on the total dollar value of disbursements. There could be a minimal fiscal impact in lowering the required aggregate reporting from $50 per property to $10. The change will lead to many more people learning of and claiming "less than $50" accounts, but the total $ amount of the payments disbursed will be minimal – More than 98% of the value of all funds held is for accounts greater than $50.

Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

III. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? **Y☐ N☐**

Revenues:	
Expenditures:	The bill requires an insurer to prefund the services required to initiate a data transfer plan should the insurer by liquidated.
Other:	The impact from Section 42 will be positive to citizens who are unaware of the funds (because accounts reported "in aggregate" are not searchable) and will now have the opportunity to make recovery. Reporting entities already remit the funds, so there will be no additional fiscal impact on them. Thirteen (13) states have now lowered the aggregate account limits, meaning reporting entities are already providing this owner information to other states. All reporting entities already provide the owner information on all other (>$50) accounts – impact on holders will be minimal. There may be an initial minor IT cost for formatting changes.

IV. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? **Y☐ N☐**

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

I. DOES THE BILL IMPACT THE DEPARTMENT'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

I. 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.	

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations? B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)? C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties? D. Rules: The proposed bill will require changes to the current rules in place. The rulemaking will consist of updating current policies to comply with new bill requirements. No new rules will be required.

The Florida Senate

APPEARANCE RECORD

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

01/22/24
Meeting Date

Banking + Insurance
Committee

SB 1098
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chase Mitchell

Phone (850) 413-4938

Address 400 S Monroe Street
Street

Email conner.blitch@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: Department of Financial Services

☐ 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 1098: Department of Financial Services** be placed on the agenda of the Banking and Insurance Committee 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 1098
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/22/2024 1 Amendment 430616 was adopted DiCeglie					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
X		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
9	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 1104
INTRODUCER:	Senator Bradley
SUBJECT:	Policy Cancellations and Nonrenewals by Property Insurers
DATE:	January 22, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Favorable**
2.			JU	
3.			RC	

I. Summary:

SB 1104 amends s. 627.4133, F.S., relating to cancellation and nonrenewal of property insurance policies. Specifically, the bill:

- Prohibits cancellation or nonrenewal of a commercial property insurance policy for a period of 90 days after repairs are complete related to a hurricane claim, wind claim, or a flood loss claim covered under the same or a separate policy;
- Applies the flood loss provisions to current law applicable to personal residential properties;
- Provides that for any such nonrenewal, the insurer must give at least 90 days' notice to the insured;
- Provides that if a flood loss caused by a hurricane is uncovered, the commercial property insurer may not cancel the policy until the earlier of 1 year after the loss or the completion of flood repairs; and
- Specifies circumstances where a policy may be cancelled or nonrenewed before repairs are complete.

The bill does not appear to have a significant fiscal impact on state or local government.

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

II. Present Situation:

Notice of Cancellation or Nonrenewal of Insurance Policies

The requirements for an insurer to provide notice of cancellation or nonrenewal of a policy are set forth in s. 627.4133, F.S. The specific notice depends on the type of insurance provided and the particular circumstances of the subject policy.

For coverage of property, casualty (except for mortgage guaranty), surety, or marine insurance (except for certain motor vehicle insurance), an insurer must inform the first-named policyholder with 45 days' advance written notice of the cancellation or nonrenewal.[1] When cancellation is due to failure to pay a premium, at least 10 days' written notice of cancellation and the reason for the cancellation must be provided to the insured.[2] When cancellation occurs during the first 60 days and is not a result of nonpayment of premium, at least 20 days' written notice and the reason for cancellation must be given to the insured except where there has been a material misstatement, misrepresentation, or failure to comply with the policy's underwriting requirements.[3] After 60 days, no such policy may be cancelled by the insurer unless there has been a material misstatement, a failure to pay the premium, a failure to comply with the policy's underwriting requirements within a specified time, or a substantial change in the risk covered by the policy or when cancellation is given for a class of insureds.[4] If an insurer fails to provide the 45-day or 20-day written notice, the coverage provided remains in effect until 45 days after the notice is given or until the effective date of replacement coverage obtained by the named insured, whichever occurs first.[5]

With respect to personal lines or commercial residential property insurance policies, such as any homeowner, mobile home owner, farm owner, condominium association, condominium unit owner, apartment building, the insurer must give the first-named insured written notice at least 120 days before the effective date of the cancellation or nonrenewal.[6] Such insureds must receive 10 days' advance notice of cancellation for a failure to pay a premium, or 20 days' notice for a reason other than nonpayment if cancellation occurs within the first 90 days of coverage.[7] An insurer may not cancel the policy after it has been in effect for 60 days unless there has been a material misstatement, nonpayment, a failure to comply with the policy's underwriting requirements within a specified time, a substantial change in the risk covered by the policy or unless the cancellation is for a given class of insureds.[8]

An authorized insurer may not cancel or nonrenew a residential property insurance policy:

- For a period of 90 days after the property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency and the filing of an order by the Commissioner of Insurance Regulation.
- Until the earlier of when property has been repaired or 1 year after the insurer issues the final claim payment, if such property was damaged by a covered peril, but was not damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency and the filing of an order by the Commissioner of Insurance Regulation.[9]

[1] Section 627.4133(1)(a) and (b), F.S.
[2] Section 627.4133(1)(b)1., F.S.
[3] Section 627.4133(1)(b)2., F.S.
[4] Section 627.4133(1)(b), F.S.
[5] Section 627.4133(1)(c), F.S.
[6] Section 627.4133(2)(b), F.S.
[7] Section 627.4133(2)(b)1. and 2., F.S.
[8] Section 627.4133(2)(b)3., F.S.
[9] Section 627.4133(2)(e)1., F.S.

A structure is deemed repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer.[10] An insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property upon 10 days' notice for nonpayment of premium; or upon 45 days' notice:

- For a material misstatement or fraud related to the claim;
- If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or
- If the insurer has paid policy limits.[11]

If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the dwelling or residential property has been repaired.[12] This requirement does not prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations.[13] Any cancellation or nonrenewal subject to these limitations that is set to become effective during a hurricane, the effective date is extended until the end of the duration of the hurricane.[14]

Insurers may not cancel or nonrenew a property insurance policy based on the policyholder making a claim based on the result of an act of God, unless the insurer can demonstrate that the insured failed to take action reasonably necessary as requested by the insurer to prevent recurrence of damage to the insured property.[15]

III. Effect of Proposed Changes:

The bill amends s. 627.4133(1), F.S., to provide that an insurer may not cancel or nonrenew a property insurance policy covering a commercial property located in this state:

- For a period of 90 days after the property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency pursuant to s. 252.36 and the filing of an order by the Commissioner of Insurance Regulation. Damage includes flood damage caused by a hurricane if flood is a covered peril under the commercial property policy or under a separate flood insurance policy. If flood is not a covered peril and the property has been damaged as a result of flood caused by a hurricane, an insurer may not cancel or nonrenew the commercial property policy until the earlier of when the property has been repaired or 1 year after the date of loss; or
- Until the earlier of when the commercial property has been repaired or 1 year after the insurer issues the final claim payment, if such property was damaged by any covered peril other than a hurricane or wind loss that is the subject of a declaration of emergency.

[10] Section 627.4133(2)(e)5.a., F.S.
[11] Section 627.4133(2)(e)2., F.S.
[12] Section 627.4133(2)(e)3., F.S.
[13] *Id.*
[14] Section 627.4133(2)(f), F.S.
[15] Section 627.4133(3), F.S.

The bill does authorize an insurer or agent to cancel or nonrenew such a policy prior to the repair of the commercial property upon 10 days' notice for nonpayment of premium; or upon 45 days' notice:

- For a material misstatement or fraud related to the claim;
- If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or
- If the insurer has paid the policy limits for a loss to each insured structure that was damaged.

If the insurer does elect to nonrenew a policy covering a commercial property that has been damaged, the insurer must provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the property has been repaired. This requirement does not prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for these limitations. The bill grants rulemaking authority to the Financial Services Commission necessary to implement these provisions and gives the Commissioner of Insurance Regulation authority to issue orders necessary to implement the provisions.

The bill provides that a commercial property structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer. A structure insured by a surplus lines insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer or eligible surplus lines insurer. Such a policy extended or renewed must contain the same policy terms as the policy being extended or renewed.

With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment building, or other policy covering a residential structure or its contents, the bill amends s. 627.4133(2)(e), F.S., to include flood damage caused by a hurricane if flood is a covered peril under the policy or separate flood insurance policy. If flood is not a covered peril and the property is damaged as a result of flood caused by a hurricane, the insurer may not cancel or nonrenew the policy until the earlier of when the property has been repaired or 1 year after the date of loss.

The bill amends s. 627.4133(2)(e)2., F.S., to provide that an insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property upon 10 days' notice for nonpayment of premium; or upon 45 days' notice:

- For a material misstatement or fraud related to the claim;
- If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or
- If the insurer has paid policy limits for a loss to the insured dwelling under a personal residential policy, or policy limits for a loss to each insured structure that was damaged under a commercial residential policy.

The bill amends s. 627.4133(2)(e)5., F.S., to provide that, with respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment building, or other policy covering a residential structure or its contents, that a structure insured

by an authorized insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer. The bill provides that a structure insured by a surplus lines insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer or eligible surplus lines insurer. The bill provides that the term "insurer" means an authorized insurer or an eligible surplus lines insurer. Finally, the bill provides that if a policy is extended or renewed to comply with these provisions, the policy must contain the same policy terms as the policy being extended or renewed.

The bill 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 bill should benefit commercial property owners affected by hurricanes or windstorm damage by assuring they can maintain insurance coverage while having property damage repaired. Insurers will be affected by ensuring the provisions of the bill are implemented and followed.

C. Government Sector Impact:

The bill does not appear to have a significant fiscal impact on state or local government. The bill gives rulemaking authority to the Financial Services Commission. The Commission may incur some costs if it does adopt any rules pursuant to this authority.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 627.4133.

IX. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Bradley

6-01583C-24 20241104__

A bill to be entitled

An act relating to policy cancellations and nonrenewals by property insurers; amending s. 627.4133, F.S.; prohibiting insurers from canceling and nonrenewing within certain timeframes policies covering commercial properties damaged by hurricanes and wind losses; providing exceptions; providing construction; authorizing the Financial Services Commission to adopt rules and the Commissioner of Insurance Regulation to issue orders; providing a definition; requiring commercial property policies to contain specified terms under certain circumstances; prohibiting eligible surplus lines insurers from canceling and nonrenewing within certain timeframes policies covering dwellings and residential properties damaged by hurricanes and wind losses; providing that such prohibition applies to flood damages caused by hurricanes; providing exceptions; revising the definition of the term "insurer" to include eligible surplus lines insurers; requiring personal lines and commercial residential property policies to contain specified terms under certain circumstances; providing an effective date.

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

Section 1. Paragraph (e) of subsection (2) of section 627.4133, Florida Statutes, is amended, and paragraph (e) is added to subsection (1) of that section, to read:

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

6-01583C-24 20241104__

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(1) Except as provided in subsection (2):

(e)1. An insurer may not cancel or nonrenew a property insurance policy covering a commercial property located in this state:

a. For a period of 90 days after the commercial property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency pursuant to s. 252.36 and the filing of an order by the Commissioner of Insurance Regulation. Damage under this sub-subparagraph includes flood damage caused by a hurricane if flood is a covered peril under the commercial property policy or under a separate flood insurance policy. If flood is not a covered peril under the commercial property policy or under a separate flood insurance policy and the property has been damaged as a result of flood caused by a hurricane, an insurer may not cancel or nonrenew the commercial property policy until the earlier of when the property has been repaired or 1 year after the date of loss.

b. Until the earlier of when the commercial property has been repaired or 1 year after the insurer issues the final claim payment, if such property was damaged by any covered peril and sub-subparagraph a. does not apply.

2. However, an insurer or agent may cancel or nonrenew such a policy prior to the repair of the commercial property:

a. Upon 10 days' notice for nonpayment of premium; or

b. Upon 45 days' notice:

(I) For a material misstatement or fraud related to the

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

claim;

(II) If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or

(III) If the insurer has paid the policy limits for a loss to each insured structure that was damaged.

3. If the insurer elects to nonrenew a policy covering a commercial property that has been damaged, the insurer shall provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the commercial property has been repaired. This paragraph does not prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations of subparagraph 1. The Financial Services Commission may adopt rules, and the Commissioner of Insurance Regulation may issue orders, necessary to implement this paragraph.

4. For purposes of this paragraph:

a. A structure that is currently insured by an authorized insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer writing policies in this state. A structure that is currently insured by a surplus lines insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer or eligible surplus lines insurer writing policies in this state.

b. The term "insurer" means an authorized insurer or an eligible surplus lines insurer.

c. If a policy is extended or renewed to comply with this paragraph or with any other provision of the Commissioner of

Insurance Regulation's order, it must contain the same policy terms as the policy being extended or renewed.

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment building, or other policy covering a residential structure or its contents:

(e)1. An ~~authorized~~ insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state:

a. For a period of 90 days after the dwelling or residential property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency pursuant to s. 252.36 and the filing of an order by the Commissioner of Insurance Regulation. Damage under this sub-subparagraph includes flood damage caused by a hurricane if flood is a covered peril under the personal residential or commercial residential property insurance policy or under a separate flood insurance policy. If flood is not a covered peril under the personal residential or commercial residential property policy or under a separate flood insurance policy and the property has been damaged as a result of flood caused by a hurricane, an insurer may not cancel or nonrenew the personal residential or commercial residential property policy until the earlier of when the property has been repaired or 1 year after the date of loss.

b. Until the earlier of when the dwelling or residential

property has been repaired or 1 year after the insurer issues the final claim payment, if such property was damaged by any covered peril and sub-subparagraph a. does not apply.

2. However, an insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property:

a. Upon 10 days' notice for nonpayment of premium; or

b. Upon 45 days' notice:

(I) For a material misstatement or fraud related to the claim;

(II) If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or

(III) If the insurer has paid policy limits for a loss to the insured dwelling under a personal residential policy, or policy limits for a loss to each insured structure that was damaged under a commercial residential policy.

3. If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer shall provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the dwelling or residential property has been repaired. ~~Nothing in~~ This paragraph does not ~~shall~~ prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations of subparagraph 1. The Financial Services Commission may adopt rules, and the Commissioner of Insurance Regulation may issue orders, necessary to implement this paragraph.

4. This paragraph shall also apply to personal residential

and commercial residential policies covering property that was damaged as the result of Hurricane Ian or Hurricane Nicole.

5. For purposes of this paragraph:

a. A structure that is currently insured by an authorized insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer writing policies in this state. A structure that is currently insured by a surplus lines insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer or eligible surplus lines insurer writing policies in this state.

b. The term "insurer" means an authorized insurer or an eligible surplus lines insurer.

c. If a policy is extended or renewed to comply with this paragraph or with any other provision of the Commissioner of Insurance Regulation's order, it must contain the same policy terms as the policy being extended or renewed.

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/22/24
Meeting Date

Banking & Insurance
Committee

1104
Bill Number or Topic

Amendment Barcode (if applicable)

Name BG Murphy

Phone 850-893-4155

Address 3159 Shamrock St. S.
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:
Florida 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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1/22
Meeting Date

B&I
Committee

1104
Bill Number or Topic

Amendment Barcode (if applicable)

Name DONOVAN BROWN

Phone 850.815.6010

Address

Email

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:

WHOLESALE & SPECIALTY INSURANCE 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)

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S-001 (08/10/2021)

The Florida Senate

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1.22.24
Meeting Date

Banking & Insurance
Committee

1104
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ashley Kalifeh

Phone 850.222.9075

Address 124 W. Jefferson St.
Street

Email ashley@cccfla.com

Tallahassee FL 32303
City *State* *Zip*

Reset Form

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 Surplus Lines 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)

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S-001 (08/10/2021)

The Florida Senate

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1-22-24
Meeting Date

Banking & Insurance
Committee

1104
Bill Number or Topic

Amendment Barcode (if applicable)

Name Caitlin Murray

Phone 850-491-8424

Address 850 S. Gadsden St. Unit 904
Street

Email Cmurray@namic.org

Tallahasse 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:
National Association of Mutual Insurers

☐ 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

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1-22-24
Meeting Date

Banking & Insurance
Committee

1104
Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael Carlson

Phone 850-544-9576

Address 215 South Monroe St. Ste. 835
Street

Email michael.carlson@piff.net

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:
Personal Insurance Federation 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)

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The Florida Senate

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1/22/2024
Meeting Date

Banking and Insurance
Committee

SB 1104
Bill Number or Topic

Amendment Barcode (if applicable)

Name George Feijoo

Phone 850-631-0024

Address P O Box 1698
Street

Email grfeijoo@flapartners.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 Insurance Council

☐ 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

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Criminal and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR JENNIFER BRADLEY
6th District

January 11, 2024

Senator Jim Boyd, Chairman
Senate Committee on Banking and Insurance
415 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Boyd:

I respectfully request that Senate Bill 1104 be placed on the committee's agenda at your earliest convenience. This bill relates to policy cancellations and nonrenewal by property insurers.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

Jennifer Bradley

cc: James Knudson, Staff Director
Amaura Canty, Administrative Assistant

REPLY TO:
❒ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
❒ 124 Northwest Madison Street, Lake City, Florida 32055 (386) 719-2708
❒ 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

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 1104
FINAL ACTION: Favorable
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
X		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:	SB 1336
INTRODUCER:	Senator Grall
SUBJECT:	Interest on Trust Accounts
DATE:	January 19, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Favorable**
2.			AEG	
3.			FP	

I. Summary:

SB 1336 requires the Chief Financial Officer (CFO) to establish the interest rates that must be paid by financial institutions on trust accounts that attorneys use for the deposit of nominal or short-term client funds, known as the interest on trust account (IOTA) program. Participation by financial institutions is voluntary. The bill requires financial institutions participating in the IOTA program to comply with the IOTA rates set by the CFO. The CFO is required to set the rate of interest on the trust accounts quarterly. The bill requires the CFO to set the interest rate based on the higher of 68 points of the upper bound of the federal funds rate or 0.25 percent, and the annual percentage yield of such interest rate would be capped at 2.55 percent. As of January 17, 2024, the Federal funds rate was 5.33 percent. The rate would be calculated by selecting the higher of .68 percent of 5.33 percent (or 3.62 percent) or 0.25 percent. However, the annual interest rate subject to a maximum rate of 2.55 percent, which would be interest rate set by the CFO on financial institutions participating in the IOTA program.

As an alternative to paying the established rate described above, a participating financial institutions may pay an annual percentage yield that is the higher of the highest interest rate or dividend generally available from the institution to its non-IOTA business or consumer account customers, or its non-maturing deposit account customers, or 0.25 percent, when IOTA accounts meet or exceed the same minimum balance or other eligibility qualifications.

The Interest on Trust Account (IOTA) program, was implemented by rules adopted by the Florida Supreme Court in 1981, and is administered by Funding Florida Legal Aid. Currently, the rule prescribes that, when the Wall Street Journal Prime Rate (indexed rate) is between 3.25 and 4.99 percent, the minimum interest rate paid, net of all fees and service charges, must be no less than 3.00 percent below the indexed rate in effect on the first business day of each month. When the indexed rate is 5.00 percent or above, the yield must be no less than 40 percent of the indexed rate in effect on the first business day of each month. The interest generated on these trust accounts is used to fund legal assistance for low-income individuals, improvements in the

administration of justice, and law student assistance. As of January 16, 2023, the indexed rate was 8.5 percent. Since the indexed rate is above 5 percent, participating financial institutions are required to pay an interest rate on these accounts of at least 3.40 percent (40 percent of 8.5 percent).

The fiscal impact on state and local governments is expected to be insignificant.

II. Present Situation:

Chief Financial Officer

The Chief Financial Officer (CFO) serves as the head of the Department of Financial Services. The CFO is a member of the Cabinet and is designated as the chief fiscal officer[1] of the state and is responsible for setting and approving accounts against the state and keeping all state funds and securities.[2]

The Florida Supreme Court

The Supreme Court of Florida has the exclusive and ultimate authority[3] to regulate the admission of persons to the practice of law and the discipline of those persons who are admitted to practice.[4] The Court performs those official functions through two separate arms: the Florida Board of Bar Examiners, which screens, tests, and certifies candidates for admission to the practice, and The Florida Bar, which is the investigative and prosecutorial authority in the lawyer regulatory process.[5]

The Florida Bar

The Supreme Court of Florida establishes the authority and responsibilities of The Florida Bar, an official arm of the Court.[6] The purpose of The Florida Bar is to inculcate in its members the principles of duty and service to the public, to improve the administration of justice, and to advance the science of jurisprudence.[7] The governing body of The Florida Bar is its Board of Governors consisting of 52 members.[8] The Board of Governors has exclusive authority to adopt matters of policy concerning the activities of the Bar, subject only to the limitations imposed by the Rules Regulating The Florida Bar, adopted by the Florida Supreme Court.

Funding Florida Legal Aid

The Florida Bar Board of Governors created The Florida Bar Foundation in 1956 as a nonprofit corporation chartered to foster law-related public interest programs on behalf of Florida's legal profession. In 2023, the Foundation changed its name to Funding Florida Legal Aid (FFLA).[9]

[1] FLA. CONST. art. IV, s. 4.
[2] Section 17.001, F.S.
[3] FLA. CONST. art. V, s. 15.
[4] https://www.floridabar.org/about/faq/ (last visited Jan. 15, 2024).
[5] *Id.*
[6] R. Regulating Florida Bar, Rule 1-2. (605 So.2d 252).
[7] *Id.*
[8] The Florida Bar, What we do (July 2023) https://www.floridabar.org/about/faq/what-we-do/ (last visited Jan. 17, 2024).
[9] https://fundingfla.org/about-ffla/ffla-overview/ (last visited Jan. 15, 2024).

The FFLA is a 501(c)(3) nonprofit organization whose mission is to increase access to the justice system for people of limited means by funding legal services, developing tools and programs, and support legal aid providers and the courts.

Of Florida's approximately 7.5 million households, over 1 million live in poverty, and over 4.2 million Floridians have an income that is below 125 percent of the Federal Poverty Level, making them eligible for services from one of Florida's civil legal aid organizations.[10] The FFLA is required to distribute no less than 85 percent of IOTA funds collected in its fiscal year no later than six months after the end of its fiscal year.[11] The FFLA's fiscal year runs July 1 to June 30. On December 8, 2023, the board of directors of the FFLA approved the distribution of $33,870,910 of IOTA funds to 35 Florida legal aid organizations.[12]

Interest on Trust Accounts Program

In 1978, the Board of Governors of The Florida Bar, with the concurrence of the Board of Directors of The Florida Bar Foundation, Inc., petitioned the Supreme Court requesting that the Court amend the rules governing the practice of law in Florida to authorize attorneys to invest trust funds held for clients in order to generate investment income for the benefit of public interest programs related to the legal profession.[13] In its opinion, In re Interest on Trust Accounts, the Supreme Court found that the creation of the IOTA program was within the Court's constitutional authority to regulate the practice of law and adopted the nation's first IOTA program.[14] After several minor amendments,[15] and delays due to uncertainty as to the appropriate federal income tax treatment of the interest payable to The Florida Bar Foundation, Florida's IOTA program, permitting the participation by lawyers and law firms, became operational in September 1981. Participation by financial institutions is voluntary; however, those that do participate must comply with the IOTA requirements, approved by the Supreme Court.

The rule requires all nominal or short-term funds of clients or third persons to be pooled into an interest-bearing account benefitting IOTA if the lawyer has determined that the funds cannot practicably be invested for the benefit of the client or third party.[16] However, client or third parties trust funds that lawyers have determined can earn income for the individual client or third person, in excess of the costs to secure such income, cannot be deposited into IOTA accounts.[17] Members of The Florida Bar are required to certify annually in writing on the annual membership fee statement[18] that they are in compliance with, or exempt from, the provisions of the IOTA program.[19]

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[10] IN RE: AMENDMENTS TO RULE REGULATING THE FLORIDA BAR 5-1.1(g). (June 18, 2021) SC20-1543 Opinion (flcourts.gov) (last visited Jan. 15, 2024).
[11] R. Regulating the Fla. Bar Rule 5.1-1(g).
[12] FFLA to distribute $33.8 million in IOTA funds to 35 legal aid organizations | FFLA (fundingfla.org) (last visited Jan. 19, 2024).
[13] Original jurisdiction vests in the Supreme Court pursuant to Art. V, s. 15, Fla. Const.
[14] In re Interest of Trust Accounts, 356 So. 2d 799 (Fla. 1978).
[15] Mattter of Interest on Trust Accounts, 372 So. 2d 67 (Fla. 1979).
[16] R. Regulating The Florida Bar Rule 5.1-1(g).
[17] FFLA, Interest on Trust Accounts Program IOTA - Interest on Trust Accounts Program (fundingfla.org) (last visited Jan. 18, 2024).
[18] Attorneys Law Firms | FFLA (fundingfla.org) (last visited Jan. 14, 2024).
[19] R. Regulating The Florida Bar Rule 5-1.1(g).

2023 IOTA Amendments Adopted by the Florida Supreme Court

In March 2023, the Florida Supreme Court[20] adopted amendments to rules regulating The Florida Bar, including the rule regulating the trust accounts in the following manner:

- Expands the definition of an interest or dividend-bearing trust account to include a business or consumer deposit account.[21]
- Requires eligible institutions to maintain IOTA accounts that pay the highest interest rate or dividend generally available from the institution to its non-IOTA business or consumer account customers, or its non-maturing deposit account customers when IOTA accounts meet or exceed the same minimum balance qualifications.[22]
- Requires eligible institutions to tie interest rates for IOTA accounts to specific indexed rate points.[23]

The amendments were set to take effect May 15, 2023. In determining the interest rates for IOTA accounts, the 2023 amended rules requires the following:

> When the Wall Street Journal Prime Rate (indexed rate) is between 325 and 499 basis points (3.25 and 4.99), the minimum interest rate paid net of all fees and service charges (yield) must be no less than 300 basis points (3.00 percent) below the indexed rate in effect on the first business day of each month. When the indexed rate is 500 basis points (5.00 percent) or above, the yield must be no less than 40 percent of the indexed rate in effect on the first business day of each month.[24]

According to a recent Florida Bar News article, under the amended rule, when the prime rate is between 3.25 percent and 5.00 percent, then the trust account rate bank payout is between .25 percent and 2.00 percent, resulting in a 3.00 gain. After that the gains at a 7.00 interest rate, for example, banks will pay out 2.8 percent, resulting in a 4.2 percent gain.[25]

Since the Court's rule went into effect in May 2023, the attorney trust accounts have earned more than $60 million for civil legal aid, a significant increase compared to the $9.5 million to $16.2 million per year earned from 2018 to 2022.[26] According to The Florida Bar, the participation of banks is significant, with only a minimal percentage (2.5 percent) of the 161 banks providing Florida attorney IOTA accounts discontinuing the service since the changes.[27]

Subsequently on March 31, 2023, the Florida Bankers Association (FBA) filed a motion[28] for a rehearing of the Court's March 16, 2023 opinion. As an alternative, the FBA seeks to file

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[20] SC22-1292 (Mar. 16, 2023).
[21] R. Regulating Fla. Bar Rule 5-1.1(g)(1)(E).
[22] R. Regulating Fla. Bar Rule 5-1.1(g)(5)(A).
[23] R. Regulating Fla. Bar Rule 5-1.1(g)(5)(B).
[24] *Id.*
[25] Measure would have Florida's CFO set the rate paid on IOTA accounts – The Florida Bar (Jan. 16, 2024) (last visited Jan. 19, 2024).
[26] Florida Bar, IOTA Rule White Paper, (Jan. 19, 2024) (on files with Senate Committee on Banking and Insurance Committee).
[27] *Id.*
[28] Florida Bankers Association's Motion, In Re: Amendments to Rules Regulating the Florida Bar 5-1.1 (Mar. 31, 2023), Case No. SC22-1292 70f6bc15-9b6e-41b5-8c56-65db9b750a31 (flcourts.gov) (last visited Jan. 19, 2024).

comments out of time or leave to reappear as amicus curiae on rehearing. The motion states that the use the Wall Street Prime Rate (index rate) means that the minimum interest rates paid on IOTA accounts are significantly higher than any other interest rate offered by any bank on consumer or business transactional accounts.[29] Thus, the FBA asserts that the implementation of the amendment will have a disproportionate negative effect by causing an abrupt and destabilizing decline in the number of banks participating, resulting in decreased choice for, and significant cost-shifting to, Florida law firms.[30]

The FBA motion also asserts that the 2023 IOTA amendment conflicts with the federal regulation of national banks and is thus federally preempted under the Supremacy Clause.[31] The FBA contends that the IOTA amendment in essence dictates the interest rates for national banks and is thus preempted because it seeks to control or otherwise prevent or significantly interfere with national banking powers.[32]

On April 14, 2023, The Florida Bar provided a response to the FBA's motion for rehearing.[33] The Florida Bar maintains that this minimum rate is within the reasonable range of the fair market price to charge banks to receive the billions of dollars of capital in these lawyers' IOTA trust accounts.[34] Further, The Florida Bar contends that this rule does not compel any bank to offer this interest rate.[35] The Florida Bar asserts that by setting this objective standard, every lawyer has a goal that the Bar maintains is achievable, and these lawyers will now negotiate more aggressively to achieve what the Bar maintains is the fair market price.[36]

IOTA Programs in Other States

According to the American Bar Association, interest on lawyers' trust accounts (IOLTA) or IOTA in Florida, currently operate in 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.[37] In 2020, the IOLTA and IOTA programs generated over $175 billion in revenue nationwide, and the programs awarded grants of $168 programs million to support legal aid offices and pro bono services.[38] The Texas and Georgia program are described below.

In Texas, the Access to Justice Foundation administers the IOLTA program, which was established in 1984 by the Supreme Court of Texas.[39] As of July 1, 1989, all Texas attorneys handling qualifying client funds must establish an IOLTA account, unless a low balance exempts them.[40] Pursuant to the Supreme Court of Texas, attorneys must hold IOLTA accounts in eligible banks, which are those that pay interest rates comparable to other similar situated accounts.

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[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] The Florida Bar's Response to the FBA's Motion for Rehearing, Case No. SC22-1292. The Florida Supreme Court. (Apr. 14, 2023) a8e413ea-a6d4-417f-a1b0-2536bb7c9292 (flcourts.gov) (last visited Jan. 15, 2024).
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] American Bar Association, IOLTA Overview, Overview (americanbar.org) (last visited Jan. 17, 2024).
[38] *Id.*
[39] Directory of IOLTA Programs (americanbar.org) (last visited Jan. 17, 2024).
[40] Texas Access to Justice Foundation, TAJF- Funding (teajf.org) (last visited Jan. 17, 2024).

The attorney, or law firm, establishing the interest-bearing demand account must attempt in good faith to obtain a rate of interest payable on the account not less than the rate paid by the depository institution to other depositors with accounts of similar size.[41] A higher rate offered by the institution on deposits meeting certain time requirements or minimum amounts, such as those offered in the form of certificates of deposit, may be obtained if there is no impairment of the right to withdraw or transfer principal immediately, other than the statutory notification requirements generally applicable to those accounts, even though interest may be lost because of the withdrawal or transfer.[42]

Pursuant to the Georgia Supreme Court rules, the Georgia Bar Foundation administers the IOLTA program.[43] On any IOLTA Account, the rate of interest payable may not be less than

- The highest interest rate or dividend generally available from the approved institution to its non-IOLTA customers for each IOLTA account that meets the same minimum balance or other eligibility qualifications, if any. In determining the highest interest rate or dividend generally available from the institution to its non-IOLTA customers, the institution may consider factors, in addition to the IOLTA Account balance, customarily considered by the institution when setting interest rates or dividends for its customers if such factors do not discriminate between IOLTA Accounts and accounts of non-IOLTA customers; or
- Alternatively, an institution may choose a rate equal to the greater of: 0.65% per annum or a benchmark interest rate, net of allowable reasonable fees, set by the Foundation, which shall be expressed as a percentage (index) of the federal funds target rate, as established from time to time by the Federal Reserve Board. In order to maintain an overall comparable rate, the Foundation will periodically, but not less than annually, publish its index. The index shall initially be 65% of the federal funds target rate.
- Approved institutions may choose to pay rates higher than comparable rates discussed above.[44]

Current Market Interest Rates

As of January 16, 2023, the Wall Street Journal prime rate (indexed rate) was 8.5 percent. To determine this rate, the Wall Street Journal surveys the 30 largest banks, and when three-quarters of them (23) change, the WSJ changes its rate, effective on the day the Journal publishes the new rate. It's the most widely quoted measure of the prime rate, which is the rate at which banks will lend money to their most-favored customers.[45] The prime rate will move up or down in lock step with changes by the Federal Reserve Board.[46] The prime rate is an important index used by banks to set rates on many consumer loan products, such as credit cards or auto loans.

As of January 17, 2024, the Federal funds rate was 5.33 percent.[47] The Federal Reserve implements monetary policy primarily by influencing the federal funds rate, which is the interest

[41] *See* State Bar of Texas Rules, Article XI, Sections 5-6. In the Supreme Court (teajf.org) (last visited Jan. 17, 2024).
[42] *Id.*
[43] Rule 15-103, prescribes the rate of interest paid. ORDER-2014_1_FINAL_with-State-Bar-Edits1.pdf (gasupreme.us) (last visited Jan. 18, 2024).
[44] *Id.*
[45] Wall Street Prime Rate | WSJ Current Prime Rate Index (bankrate.com) (last visited Jan. 19, 2024).
[46] *Id.*
[47] Federal Reserve Board - H.15 - Selected Interest Rates (Daily) - January 18, 2024 (last visited Jan. 19, 2024).

rate that financial institutions charge each other for loans in the overnight market for reserves.[48] The daily effective federal funds rate is volume-weighted median of transaction-level data collected from depository institutions in the Report of Selected Money Market Rates.[49]

III. Effect of Proposed Changes:

Section 1. Creates s. 655.97, F.S., relating to interest on trust accounts. The Chief Financial Officer (CFO) is required to set the rates, net of fees and service charges quarterly (December 1, March 1, June 1, and September 1) to be effective for January 1, April 1, July 1, and October 1, respectively. In establishing this rate, the CFO must use the highest of 68 percent of the upper bound of the federal funds rate or 25 basis points (0.25 percent). This rate is known as the compliance rate. The annual percentage yield of the established compliance rate may not exceed 255 basis points (2.55 percent).

As of January 17, 2024, the federal fund rate was 5.33. The bill provides that the CFO must use the highest of 68 percent of this rate, which is 3.62 percent, or 0.25 of the Federal rate, which is 1.33. The highest rate of 3.62 percent is then compared to the cap of 2.55 percent, resulting in a maximum interest rate of 2.55 percent.

In lieu of paying the established compliance rate, a financial institution may pay an annual percentage yield that is higher of: the highest interest rate or dividend generally available from the institution to its non-IOTA accounts, consumer accounts, or its non-maturing deposit accounts, or 25 basis points (0.25 percent), when IOTA accounts meet or exceed the same minimum balance or other eligibility requirements.

Under the current rule adopted by the Florida Supreme Court, when the Wall Street Journal Prime Rate (indexed rate) is between 3.25 and 4.99 percent, the minimum interest rate paid, net of all fees and service charges, may not be no less than 3.00 percent below the indexed rate in effect on the first business day of each month. When the indexed rate is 5.00 percent or above, the yield must be no less than 40 percent of the indexed rate in effect on the first business day of each month.

As of January 16, 2023, the indexed rate was 8.5 percent. Since the indexed rate is above 5 percent, participating financial institutions are required to pay an interest rate on these accounts of at least 3.40 percent (40 percent of 8.5 percent).

Once the compliance rate is set by the CFO, the CFO must notify Funding Florida Legal Aid of this rate. This rate does not apply to or effect an interest rate established by written contract or obligation not affecting IOTA accounts. If a financial institution selects the alternative interest rate described above, the institution must submit to Funding Florida Legal Aid the IOTA Rate Comparability Information form promulgated by The Florida Bar.

Section 2. The act takes effect July 1, 2024.

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[48]Federal Reserve Bank of San Francisco, What is the Fed: Monetary Policy https://www.frbsf.org/education/teacher-resources/what-is-the-fed/monetary-policy. (2024) (last visited Jan.18, 2024).
[49] *Id.*

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:

Currently, rules relating to the regulation of attorneys, including the interest on trust accounts (IOTA), are governed by rules adopted by the Florida Supreme Court. In re Interest on Trust Accounts, the Supreme Court found that the creation of the IOTA program was within the Court's constitutional authority to regulate the practice of law.[50]

Separation of Powers

The Florida Constitution mandates separation of powers between branches of the Florida government. Article II, section 3 of the Florida Constitution provides:

> "The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein."

The separation of powers doctrine encompasses two fundamental prohibitions. The first is that no branch may encroach upon the powers of another. The second is that no branch may delegate to another branch its constitutionally assigned power.[51] As a coequal branch of government, the judicial branch "is not an 'agency' subject to the supervision or control by another coequal branch of government."[52]

Federal Preemption

[50] In re Interest on Trust Accounts, 356 So. 2d 799 (Fla. 1978) and In the Matter of Interest on Trust Accounts, 538 So. 2d 448 (Fla. 1989).
[51] *Chiles v. Children* A, B, C, D, E, & F, 589 So.2d 260, 264 (Fla.1991).
[52] *Times Pub. Co. v. Ake*, 645 So. 2d 1003, 1004 (Fla. 2d DCA 1994), 660 So. 2d 255 (Fla. 1995).

The bill creates s. 655.97, F.S., within the Financial Institutions Code (code).[53] The code generally applies to the regulation of state-chartered financial institutions by the Office Financial Regulation. The provisions of the bill require the Chief Financial Officer (CFO) to establish rates of interest on trust accounts (IOTA) that are established by lawyers at participating or eligible institutions. Chapter 17, F.S, prescribes the duties of the CFO.

The National Banking Act was enacted by Congress to facilitate a national banking system.[54] The Office of the Comptroller of the Currency is the federal agency charged with regulating national banks and savings associations.[55] It is unclear whether the regulation of rates of interest on trust accounts within the code would be applicable to national banks and savings associations.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Implementation of the bill would reduce the maximum rate of interest on trust accounts participating financial institutions would be required to pay on such accounts.

The IOTA program would incur a significant decrease in IOTA revenues that are used to fund increased access to legal services for people of limited means and support legal aid providers and the courts.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Line 27 of the bill refers to "eligible institutions;" however, the term is not defined in the bill. The creation of a definition or a reference to the term as defined in the Rules Regulating The Florida Bar would provide clarity.

The bill amends ch. 655, F.S., relating to the regulation of financial institutions, to require the CFO to establish rates of interest on trust accounts (IOTA) that are established by lawyers at participating or eligible institutions. Chapter 17, F.S, prescribes the duties of the CFO.

[53] Chs. 655, 657, 658, 660,662,663, 665, and 667, F.S.
[54] *Marquette Nat'l Bank of Minneapolis v. First of Omaha Serv. Corp.*, 439 U.S. 299 (1978).
[55] 12 USC s. 1 *et seq.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 655.97 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.)

None.

B. Amendments:

None.

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

878516

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
01/23/2024	.	
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The Committee on Banking and Insurance (Thompson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 40 - 50.

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

And the title is amended as follows:

Delete lines 11 - 16

and insert:

applicability;

By Senator Grall

29-01145A-24 20241336__

A bill to be entitled

An act relating to interest on trust accounts; creating s. 655.97, F.S.; requiring the Chief Financial Officer to set the rate of interest payable by eligible institutions on interest on trust accounts quarterly, effective on specified dates; providing that the percentage yield of such rate may not exceed a specified threshold; requiring the Chief Financial Officer to inform Funding Florida Legal Aid of the rate established for the quarter; providing applicability; authorizing eligible institutions to pay an annual percentage yield that is the greater of specified interest rates or dividends on specified accounts under specified circumstances; requiring that such institutions submit to Funding Florida Legal Aid a certain form promulgated by The Florida Bar; providing an effective date.

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

Section 1. Section 655.97, Florida Statutes, is created to read:

655.97 Interest rate for interest on trust accounts.—

(1) On December 1, March 1, June 1, and September 1 of each year, the Chief Financial Officer shall set the rate of interest, net of all fees and service charges, which must be payable on interest on trust accounts (IOTA) by eligible institutions for the calendar quarter effective on the following January 1, April 1, July 1, and October 1, respectively, by

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

29-01145A-24 20241336__

using the higher of 68 percent of the upper bound of the federal funds rate or 25 basis points (0.25 percent). This rate is the established compliance rate. The annual percentage yield of the established compliance rate may not exceed 255 basis points (2.55 percent). Upon setting the rate, the Chief Financial Officer shall inform Funding Florida Legal Aid of the established compliance rate for the upcoming quarter. This section does not apply to or affect a rate of interest established by written contract or obligation not affecting IOTA accounts.

(2) In lieu of paying the established compliance rate, eligible institutions may pay an annual percentage yield that is the higher of the highest interest rate or dividend generally available from the institution to its non-IOTA business or consumer account customers, or its nonmaturing deposit account customers, or 25 basis points (0.25 percent), when IOTA accounts meet or exceed the same minimum balance or other eligibility qualifications. If this option is selected, the eligible institution must submit to Funding Florida Legal Aid the IOTA Rate - Comparability Information Form promulgated by The Florida Bar.

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

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

Florida Bar

Boosting Civil Legal Aid: How Florida's IOTA Program Leads the Way

January 22, 2024

Since its inception in 1981, The Florida Supreme Court's Interest on Trust Accounts (IOTA) program has pioneered a groundbreaking approach to funding civil legal aid for the underprivileged. By harnessing the previously dormant interest potential of short-term client funds held by lawyers, IOTA has become a national model, generating millions for those in need of civil legal representation.

Within the framework of the IOTA program, the Supreme Court, leveraging its exclusive jurisdiction to regulate the legal profession as stipulated in Article V, Section 15 of the Florida Constitution, mandates that lawyers pool all nominal or short-term funds of clients or third persons into an interest-bearing checking account for the benefit of IOTA. This approach allows for the use of funds that lawyers have determined cannot practicably be invested for the benefit of the client or third person. Prior to the establishment of the Court's IOTA program, these pooled funds were relegated to non-interest-bearing accounts.

The financial crisis of 2008 and its aftermath underscored the need for a more secure funding source for legal aid, prompting The Florida Bar to propose a new Bar rule in October 2022. This rule requires lawyers to keep their trust accounts in institutions that tie interest rates for IOTA accounts to specific indexed rate points, offering a free-market approach to securing better funding for necessary legal services for low-income Floridians.

The Supreme Court, under its regulatory powers, adopted this proposal and its amendments to Bar rules went into effect on May 15, 2023. These amendments are successfully achieving the goals envisioned by the Supreme Court and The Florida Bar.

Importantly, the rule changes do not regulate banks or give the Court the power to sanction banks. Instead, the changes are designed to regulate lawyers in the process of opening and maintaining IOTA trust accounts. With the new rule, The Supreme Court aims to obtain the highest interest rates available in the free market. The decision to tie the rate to the Wall Street Journal Prime Rate is seen as a reasonable approach within the fair market price range for banks to receive the billions of dollars of capital in lawyers' IOTA trust accounts.

While the rule does not compel any bank to offer this interest rate, it sets a standard that every lawyer can aspire to, providing FFLA (formerly known as The Florida Bar Foundation) with a larger and more consistent funding source to provide legal services grants to organizations serving indigent Florida citizens in need of civil legal representation who are 125% of the poverty line or below.

It is the Bar's position that this minimum rate is well within the price range that will create an adequate supply of willing bankers to offer trust accounts sufficient to cover the amounts held in those accounts by Florida's lawyers. This is because the structure of the rule still allows banks to profit on these accounts.

Since the Court's rule went into effect in May, the attorney trust accounts have earned more than $60 million for civil legal aid, a significant increase compared to the $9.5 million to $16.2 million per year earned from 2018 to 2022. The participation of banks is noteworthy, with only a minimal percentage (2.5%) of the 161 banks providing Florida attorney IOTA accounts discontinuing the service since the changes.

But the Florida Bankers Association argues that even if banks are complying in the short-term, the additional money they must now pay out in higher interest rates on IOTA accounts are unsustainable, saying in its brief to the Supreme Court asking it to revisit the rule that these trust accounts will not earn enough interest for the banks to cover the increased payout because they are "short-term deposits…earning a much lower yield than the type of yield long-term loans provide."

Basically, the Florida Bankers Association argues, these trust accounts are checking accounts, which don't earn a lot of interest. And so, bankers could go broke complying with the rule by paying out more than they bring in.

Despite concerns raised by the Florida Bankers Association regarding the sustainability of higher interest rates on IOTA accounts, Joseph "Jody" Hudgins, a retired banker and former longtime teacher at The Florida Bankers Association who is the architect of the court's rule, points out there is a guardrail built into the current approach in that banks still make financial gains on IOTA accounts because the interest rates they pay out will always be lower than the interest rates they earn by at least 3%.

For instance, under the Court's rule, when the prime rate is between 3.25% and 5%, then the trust account rate banks pay out is between .25% and 2%, a 3% gain. After that, the gains get even better for banks. At a 7% interest rate, for example, banks will pay out 2.8%, a 4.2% gain.

The success of the Florida Supreme Court's new IOTA rule offers a sustainable model for boosting legal aid funding. The exponential increase in support for the less fortunate speaks for itself. Florida's innovative approach has the potential to inspire similar initiatives across the nation, ensuring greater access to justice for all Americans. Once again, Florida leads the way in pioneering solutions for a more just society.

1/22/24
Meeting Date

Banking and Insurance
Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name Yenisbel Vilorio

Phone

Address
Street

Email

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:
Six Action

☐ 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

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Senate professional staff conducting the meeting

1/22/24
Meeting Date

Banking & Insurance
Committee

SB 1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kenneth Pratt

Phone 850-509-8020

Address 1001 Thomasville Rd Ste. 201
Street

Email kpratt@floridabankers.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 Bankers Association

☐ 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

APPEARANCE RECORD

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1/22/24
Meeting Date

BANKING + INSURANCE
Committee

1059 / 1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name LAUREN STAFFORD

Phone 850 321 9582

Address 1833 HALSTEAD BLVD 814
Street

Email LAUREN@LEGAL AID TALLAHASSEE.ORG

TALLAHASSEE FL 32309
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/22/2024
Meeting Date

Banking and Insurance
Committee

SB 1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name Leslie Powell-Boudreaux

Phone 850 7013307

Address 2119 Delta Blvd.
Street

Email Leslie@LSNF.org

Tallahasse FL 32303
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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11/22/24
Meeting Date

Banking + Insuran
Committee

SB 1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laura Munoz

Phone

Address
Street

Email

City State Zip

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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01/22/24
Meeting Date

Banking + Insurance
Committee

SB 1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jackson Oberink

Phone

Address
Street

Email

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 Rising

☐ 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

APPEARANCE RECORD

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11/22/24
Meeting Date

BANKING AND INSURANCE
Committee

1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name JOSEPH "JODY" HUDGINS

Phone 941-356-1220

Address 1220 BAY ROAD
Street

Email JODYHUDGINS@COMCAST.NET

SARASOTA FL 34239
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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22 JANUARY 2024
Meeting Date

Banking & Insurance
Committee

S 1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dominic MacKenzie

Phone 407-960-7007

Address 175 Lookout Pl. # 100
Street

Email dmackenzie@FundingFla.org

Maitland, FL 32751
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/22/24
Meeting Date

Banking & Insurance
Committee

SB 1336
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dennis Murphy

Phone 941-303-4190

Address 333 N. Orange Avenue
Street

Email dmurphy@gulfsidebank.com

Sarasota FL 34236
City State Zip

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

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The Florida Senate

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1/22/24
Meeting Date

Banking & Insurance
Committee

SB 1336
Bill Number or Topic

878516
Amendment Barcode (if applicable)

Name Kenneth Pratt

Phone 850-509-8020

Address 1001 Thomasville Rd Ste 201
Street

Email kpratt@floridabankers.com

Tallahassee FL 32301
City State Zip

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

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☑ I am a registered lobbyist, representing: Florida Bankers Association

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/22/24
Meeting Date

Banking & Insurance
Committee

SB 1336
Bill Number or Topic

878516
Amendment Barcode (if applicable)

Name Dennis Murphy

Phone 941-303-4190

Address 333 N. Orange Avenue
Street

Email dmurphy@gulfsidebank.com

Sarasota FL 34236
City State Zip

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

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S-001 (08/10/2021)

The Florida Senate

Committee Agenda Request

To: Senator Jim Boyd, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: January 10, 2024

I respectfully request that **Senate Bill #1336**, relating to Interest on Trust Accounts, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

File signed original with committee office

S-020 (03/2004)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 1336
FINAL ACTION: Favorable
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/22/2024 1 Amendment 878516 was not adopted Thompson					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
	X	Thompson						
	X	Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
8	2	**TOTALS**	-	UNF				
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 1436
INTRODUCER:	Senator Burton
SUBJECT:	Consumer Finance Loans
DATE:	January 19, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Favorable**
2.			AEG	
3.			FP	

I. Summary:

Senate Bill 1436 revises laws governing consumer finance loans, which are loans of $25,000 or less for which a lender charges an interest rate greater than 18 percent per annum. The Florida Consumer Finance Act (Act) in ch. 516, F.S., provides an exemption from Florida's prohibition against usurious contracts, under which any interest rate greater than 18 percent per annum is prohibited.

The bill modifies the limits of consumer finance loan interest rates to no more than 36 percent per annum, computed on the first $10,000 of the principal amount; 30 percent per annum on that part of the principal amount exceeding $10,000 and up to $20,000; and 24 percent per annum on that part of the principal amount exceeding $20,000 and up to $25,000.

The bill increases the number of days a payment must be in default before a delinquency charge may be imposed from 10 days in default to 12 days in default.

The bill revises the licensure process to allow a single licensure application for the principle place of business and all branches. The bill defines a "branch" as any location, other than a licensee's principal place of business, at which a licensee operates or conducts consumer finance loan business or controls for the purpose of conducting consumer finance loan business.

The bill requires consumer finance lenders, in any county designated in a Federal Emergency Management Agency (FEMA) major disaster declaration, to suspend for 90 days after the initial date of such declaration, the following:

- The application of delinquency charges for payments in default for at least 12 days;
- Repossessions of collateral pledged to a consumer finance loan; and
- The filing of civil actions for the collection of amounts owed under a consumer finance loan.

The bill also requires consumer finance lenders to:

- Provide notice to the Office of Financial Regulation (OFR) of any assistance program offered by the lender to borrowers impacted by a disaster subject to a FEMA major disaster declaration; and
- Annually report information to the OFR detailing loans issued by the lender during the previous calendar year.

The OFR estimates that the bill will result a recurring reduction of $5,000 in revenues per fiscal year but the loss is negligible and would not impact operations.

The effective date of the bill is July 1, 2024.

II. Present Situation:

The OFR's Division of Consumer Finance (Division) licenses and regulates non-depository financial service entities and individuals, and conducts investigations of licensed entities to determine their compliance with Florida law.[1] One such product regulated by the OFR is consumer finance loans.

A consumer finance loan is a loan of money, credit, goods, or interests valued at $25,000 or less with permitted interest rates between 18 and 30 percent per year.[2] A consumer finance loan is not a traditional loan made by a bank, credit union, or similar institution. The consumer finance lenders do not accept deposits, and earn their revenue from the fees charged on the loans they make.[3]

Licensure

Entities that engage in the business of making consumer finance loans must be licensed by the OFR pursuant to the Florida Consumer Finance Act, ch. 516, F.S. ("the Act"). Each location of a consumer finance lender must be separately licensed, even if the separate locations are operated by the same business entity.[4]

A consumer finance lender applicant must submit an application fee of $625 and an investigation fee of $200 with its application for licensure.[5] Consumer finance lender licenses granted under the Act must be renewed every two years, at which time the licensee must pay a $625 biennial license fee.[6]

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[1] Fla. Office of Fin. Reg., *Division of Consumer Finance: What We Do*, https://flofr.gov/sitePages/DivisionOfConsumerFinance.htm (last visited January 16, 2024).
[2] Sections 516.01(2) and 516.031(1), F.S. *See also*, Fla. Office of Fin. Reg, Consumer Finance Companies, https://flofr.gov/sitePages/ConsumerFinanceCompanies.htm (last visited January 16, 2024).
[3] Naveen Reddy, *What are the Primary Functions of Finance Companies?* (Nov. 9, 2020), https://smallbusiness.chron.com/primary-functions-finance-companies-40480.html (last visited January 16, 2024). Also note, payday lenders are separately regulated pursuant to ch. 560, F.S.
[4] Sections 516.01(6) and 516.05(3), F.S.
[5] Section 516.03(1), F.S. *See also*, Fla. Office of Fin. Reg., *Form OFR-516-01 Application for Consumer Finance Company License*, https://flofr.gov/sitePages/documents/OFR-516-01.pdf (last visited January 16, 2024).
[6] Sections 516.03(1) and 516.05(1) & (2), F.S.

The Act does not apply to persons doing business under state or federal laws governing banks, savings banks, trust companies, building and loan associations, credit unions, or industrial loan and investment companies.[7]

Permissible Interest Rates and Fees

Florida's prohibition on usury[8] generally prohibits[9] interest rates in excess of 18 percent per annum simple interest on any loan, advance of money, line of credit, or forbearance.[10] Licensed consumer finance lenders, however, may offer interest rates greater than 18 percent per annum simple interest, up to the following limits, which are based on the amount of the loan's principal:[11]

- 30 percent on the first $3,000 of the principal amount;
- 24 percent on principal above $3,000 and up to $4,000; and
- 18 percent on principal above $4,000 and up to $25,000.

The Act prohibits lenders from directly or indirectly charging borrowers additional fees as a condition to the grant of a loan, except for the following:[12]

- Up to $25 for investigating the credit and character of the borrower;
- A $25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans, title insurance, and appraisals of real property offered as security;
- Intangible personal property tax on the loan note or obligation, if secured by a lien on real property;
- Documentary excise tax and lawful fees for filing, recording, or releasing an instrument securing the loan;
- The premium for any insurance in lieu of perfecting a security interest otherwise required by the licensee in connection with the loan;
- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for repossession, storing, repairing and placing in condition for sale, and selling of any property pledged as security;
- A delinquency charge for each payment in default for at least 10 days, if agreed upon in writing before the charge is imposed, of up to $15 for payments due monthly, $7.50 for payments due semimonthly or every two weeks, and five dollars if three payments are due in the same calendar month; and
- A bad check charge of up to $20.

[7] Section 516.02(4), F.S.
[8] Usury is the act of lending money at an interest rate that is considered unreasonably high or that is higher than the rate permitted by law. Julia Kagan, Investopedia, *What is Usury? Definition, How It Works, Legality, and Example* (February 7, 2022), https://www.investopedia.com/terms/u/usury.asp (last visited January 16, 2024). *See* ss. 687.02 and 687.03, F.S.
[9] Various lenders and credits licensed or chartered under the laws of the United States or specified chapters of the Florida Statutes may charge interest at the maximum rate of interest permitted by law for similar loans or extensions of credit. *See* s. 687.12(1), F.S.
[10] Sections 687.02 and 687.12, F.S.
[11] Section 516.031(1), F.S.
[12] Section 516.031(3), F.S.

A consumer finance lender may offer optional credit property, credit life, and disability insurance at the borrower's expense via a deduction from the principal amount of the loan.[13]

Licensees under ch. 516, F.S., are expressly prohibited from charging prepayment penalties on consumer finance loans.[14]

Federal Emergency Management Agency

Robert T. Stafford Disaster Relief and Emergency Assistance Act[15] (Stafford Act)

Under the Stafford Act, Public Law No. 100-107, the President of the United States is authorized to declare emergency and major disaster declarations. An emergency declaration can be declared for any occasion or instance the President determines federal assistance is needed. Emergency declarations supplement state and local or Indian tribal emergency service efforts, which include protection of lives, property, public health and safety or lessens the threat of a catastrophe in any part of the United States.[16] Assistance provided under an emergency declaration may not exceed five million dollars. The President can declare a major disaster for any natural event[17] which the President has determined has caused severe damage beyond the combined capabilities of state and local governments to respond.[18] Such declaration of a major disaster provides federal assistance programs to individuals and public infrastructure, including emergency and permanent work.[19]

Before such declaration can be determined, the governor of a state or Tribal Chief Executive of the affected Tribe must submit a request, within thirty days of the occurrence, to the President through a FEMA Regional Administrator. Federal assistance is determined by the Governor's or Tribal Chief's request and the needs identified during preliminary damage assessments.[20]

III. Effect of Proposed Changes:

Senate Bill 1436 revises laws governing consumer finance loans, which are loans of $25,000 or less for which a lender charges an interest rate greater than 18 percent per annum. The Florida Consumer Finance Act (Act) in ch. 516, F.S., provides an exemption from Florida's prohibition against usurious contracts, under which any interest rate greater than 18 percent per annum is prohibited.

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[13] Section 516.35(2), F.S.
[14] Section 516.031(6), F.S.
[15] The Stafford Act constitutes the statutory authority for most Federal disaster response activities, especially as related to the FEMA and FEMA programs. PL 100-707 (November 23, 1988); amended the Disaster Relief Act of 1974, PL 93-288. https://www.fema.gov/disaster/stafford-act (last visited January 16, 2024).
[16] FEMA, *How a Disaster Gets Declared, Emergency Declarations*, https://www.fema.gov/disaster/how-declared (last visited January 16, 2024).
[17] Natural events include hurricanes, tornadoes, storms, high water, wind-driven water, tidal waves, tsunamis, earthquakes, volcanic eruptions, landslides, snowstorms, mudslides, or drought, or regardless of cause, fire, flood or explosion. FEMA, How a Disaster Gets Declared, *Major Disaster Declarations*, https://www.fema.gov/disaster/how-declared#:~:text=The%20President%20can%20declare%20a,that%20the%20President%20determines%20has (last visited January 17, 2024).
[18] *Id*.
[19] *Id*.
[20] *Id*.

Section 1 amends s. 516.01, F.S., to define the term "branch" to mean any location, other than a licensee's principal place of business, at which a licensee operates or conducts business under this chapter or which the licensee owns or controls for the purpose of conducting consumer finance loan business.

Section 2 amends s. 516.02, F.S., to clarify a person must not engage in the business of making consumer finance loans or operate a branch of such a business unless first authorized to do so.

Section 3 amends s. 516.03, F.S., to revise the licensure process to allow a single licensure application for the principal place of business and all branches. The bill provides applications for a license for the principal place of business to be accompanied by a nonrefundable investigation fee of $200.

Section 4 amends s. 516.031, F.S., to increase the maximum interest rate that may be charged to no more than 36 percent per annum, computed on the first $10,000 of the principal amount; 30 percent per annum on that part of the principal amount exceeding $10,000 and up to $20,000; and 24 percent per annum on that part of the principal amount exceeding $20,000 and up to $25,000.

Section 4 also increases the number of days a payment must be in default before a delinquency charge may be imposed from 10 days in default to 12 days in default.

Relating to disaster relief and suspension of penalties, **section 5** amends s. 516.15, F.S., and **section 7** creates s. 516.39, F.S., to require consumer finance lenders, in any county designated in a FEMA major disaster declaration, to suspend the following for 90 days after the initial date of such declaration:

- The application of delinquency charges for payments in default for at least 10 days;
- Repossessions of collateral pledged to a consumer finance loan; and
- The filing of civil actions for the collection of amounts owed under a consumer finance loan.

The bill also requires consumer finance lenders to provide notice to the OFR of any assistance program offered by the lender to borrowers impacted by a disaster subject to a FEMA major disaster declaration.

Section 6 creates s. 516.38, F.S., to require consumer finance licensees to annually report, by March 15, 2025, and by each March 15th thereafter, aggregated and anonymized data that does not reference any borrower's nonpublic personal information to the OFR detailing the loans issued by the lender during the previous calendar year. The report must include:

- The number of locations held by the licensee as of December 31;
- The number of loan originations by the licensee under all licenses;
- The total dollar amount of loans and the number of loans outstanding by the licensee as of December 31;
- The total number of loans in which the licensee holds a security interest in collateral as of December 31;
- The total number of unsecured loans as of December 31;

- The total number of loans, separated by principal amount, in the following ranges as of December 31:
  - Up to and including $5,000;
  - $5,001 to $10,000;
  - $10,001 to $15,000;
  - $15,001 to $20,000; and
  - $20,001 to $25,000;
- The total number and amount of loans charged off as of December 31; and
- The total dollar amount of loans and the number of loans with delinquency status listed as:
  - Current or less than 30 days past due;
  - From 30 to 59 days past due;
  - From 60 to 89 days past due; and
  - At least 90 days past due.

Furthermore, licensees claiming any information submitted in the annual report contains a trade secret must submit to the OFR an affidavit and designate the information claimed to be a trade secret in accordance with s. 655.0591, F.S. The OFR may publish a report using the annual report data, provided all data published in the report is anonymized and aggregated from all licensees.

Section 8 reenacts s. 516.19, F.S., relating to penalties, to incorporate amendments made to ss. 516.02 and 516.031, F.S.

Section 9 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill allows the OFR to publish a report of information submitted by consumer finance lenders detailing their lending activities during the prior calendar year, "provided that all data published in the report is anonymized and aggregated from all licensees." However, the lack of a public records exemption related to the reports submitted by insurers may result in the OFR having to provide the reports of individual lenders to a person making such a public records request. The report in each consumer finance lender's report to the OFR could receive trade secret protection to the extent the lender, pursuant to s. 655.0591, F.S., claims a trade secret and is successful in obtaining a declaratory judgment from a circuit court that the documents in question constitute protected trade secrets.

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:

The bill revises the licensure process for consumer finance companies to allow a single licensure application for the principle place of business and all branches, thereby potentially reducing application and investigative fees. A fee bill is not anticipated.

B. Private Sector Impact:

The bill may result in more consumer finance loans being issued by Florida-licensed consumer finance lenders to borrowers who cannot currently qualify for loans given the current interest rate limits. However, such borrowers will be subject to greater interest payments than are allowed under current law.

Applicants for the new branch office license will no longer be required to pay the $200 background investigation fee for each additional location. This may result in applicants saving up to $5,000 in reduced fees per fiscal year.[21]

C. Government Sector Impact:

The bill proposes to create a branch license in lieu of a full license for each additional location of a licensee, which will not include the $200 background investigation fee, resulting in a fee reduction. The OFR estimates a recurring reduction of $5,000 in revenues but the loss is negligible and would not impact operations. Furthermore, the reduction in staff time reviewing full license applications for each additional location when replaced with a branch office license would likely offset any loss in revenue.[22]

The changes proposed within the bill would require the OFR to update its internal licensing system to create a branch license and annual reporting functionality. The cost of such technology changes would be negligible and can be absorbed within existing resources.[23]

VI. Technical Deficiencies:

None.

[21] Office of Financial Regulation, *2024 Agency Legislative Bill Analysis of SB 1436*, at pg. 5, January 17, 2024 (on file with the Senate Banking and Insurance Committee).
[22] *Id* at pg. 5.
[23] *Id* at pg. 6.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 516.01, 516.02, 516.03, 516.031, and 516.15.
This bill creates the following sections of the Florida Statutes: 516.38 and 516.39.
This bill reenacts the following sections of the Florida Statutes: 516.19.

IX. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Burton

12-01002-24 20241436__

A bill to be entitled

An act relating to consumer finance loans; reordering and amending s. 516.01, F.S.; defining the term "branch"; amending s. 516.02, F.S.; prohibiting a person from operating a branch of a business making consumer finance loans before obtaining a license from the Office of Financial Regulation; amending s. 516.03, F.S.; specifying application fees for branch licenses; revising the applicability of investigation fees; making a technical change; amending s. 516.031, F.S.; revising the maximum interest rate on consumer finance loans; revising the minimum amount of time before which a delinquency charge for each payment in default may be imposed; amending s. 516.15, F.S.; requiring licensees offering an assistance program to borrowers after a federally declared disaster to send a specified notice to the office within a certain timeframe; providing construction; creating s. 516.38, F.S.; requiring licensees to file annual reports with the office; providing for rulemaking by the Financial Services Commission; specifying requirements for the reports; providing requirements for a licensee claiming that submitted information contains a trade secret; authorizing the office to publish a report in a certain manner; creating s. 516.39, F.S.; requiring certain licensees to suspend specified actions for a certain timeframe after a federally declared disaster; reenacting s. 516.19, F.S., relating to penalties, to incorporate the amendments made to ss. 516.02 and

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

12-01002-24 20241436__

516.031, F.S., in references thereto; providing an effective date.

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

Section 1. Section 516.01, Florida Statutes, is reordered and amended to read:

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

(1) "Branch" means any location, other than a licensee's principal place of business, at which a licensee operates or conducts business under this chapter or which the licensee owns or controls for the purpose of conducting business under this chapter.

(3) "Consumer finance borrower" or "borrower" means a person who has incurred either direct or contingent liability to repay a consumer finance loan.

(4) ~~(2)~~ "Consumer finance loan" means a loan of money, credit, goods, or choses in action, including, except as otherwise specifically indicated, provision of a line of credit, in an amount or to a value of $25,000 or less for which the lender charges, contracts for, collects, or receives interest at a rate greater than 18 percent per annum.

(2) ~~(3)~~ "Commission" means the Financial Services Commission.

(9) ~~(4)~~ "Office" means the Office of Financial Regulation of the commission.

(6) ~~(5)~~ "Interest" means the cost of obtaining a consumer finance loan and includes any profit or advantage of any kind whatsoever that a lender may charge, contract for, collect,

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

receive, or in anywise obtain, including by means of any collateral sale, purchase, or agreement, as a condition for a consumer finance loan. Charges specifically permitted by this chapter, including commissions received for insurance written as permitted by this chapter, shall not be deemed interest.

(7) ~~(6)~~ "License" means a permit issued under this chapter to make and collect loans in accordance with this chapter at a single place of business.

(8) ~~(7)~~ "Licensee" means a person to whom a license is issued.

(5) ~~(8)~~ "Control person" means 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. A person is presumed to control a company if, with respect to a particular company, that person:

(a) Is a director, general partner, or officer exercising executive responsibility or having similar status or functions;

(b) Directly or indirectly may vote 10 percent or more of a class of a voting security or sell or direct the sale of 10 percent or more of a class of voting securities; or

(c) In the case of a partnership, may receive upon dissolution or has contributed 10 percent or more of the capital.

Section 2. Subsection (1) of section 516.02, Florida Statutes, is amended to read:

516.02 Loans; lines of credit; rate of interest; license.—

(1) A person may ~~must~~ not engage in the business of making consumer finance loans or operate a branch of such business

unless she or he is authorized to do so under this chapter or other statutes and unless the person first obtains a license from the office.

Section 3. Subsection (1) of section 516.03, Florida Statutes, is amended to read:

516.03 Application for license; fees; etc.—

(1) APPLICATION.—Application for a license to make loans under this chapter shall be in the form prescribed by rule of the commission. The commission may require each applicant to provide any information reasonably necessary to determine the applicant's eligibility for licensure. The applicant shall also provide information that the office requires concerning any officer, director, control person, member, partner, or joint venturer of the applicant or any person having the same or substantially similar status or performing substantially similar functions or concerning any individual who is the ultimate equitable owner of a 10-percent or greater interest in the applicant. The office may require information concerning any such applicant or person, including, but not limited to, his or her full name and any other names by which he or she may have been known, age, social security number, residential history, qualifications, educational and business history, and disciplinary and criminal history. The applicant must provide evidence of liquid assets of at least $25,000 or documents satisfying the requirements of s. 516.05(10). At the time of making such application, the applicant shall pay to the office a nonrefundable biennial license fee of $625 for the principal place of business and for each branch application filed. Applications for a license for the principal place of business~~,~~

~~except for applications to renew or reactivate a license,~~ must also be accompanied by a nonrefundable investigation fee of $200. An application is considered received for purposes of s. 120.60 upon receipt of a completed application form as prescribed by commission rule, a nonrefundable application fee of $625, and any other fee prescribed by law. The commission may adopt rules requiring electronic submission of any form, document, or fee required by this chapter ~~act~~ if such rules reasonably accommodate technological or financial hardship. The commission may prescribe by rule requirements and procedures for obtaining an exemption due to a technological or financial hardship.

Section 4. Subsection (1) and paragraph (a) of subsection (3) of section 516.031, Florida Statutes, are amended to read:

516.031 Finance charge; maximum rates.—

(1) INTEREST RATES.—A licensee may lend any sum of money up to $25,000. A licensee may not take a security interest secured by land on any loan less than $1,000. The licensee may charge, contract for, and receive thereon interest charges as provided and authorized by this section. The maximum interest rate shall be 36 ~~30~~ percent per annum, computed on the first $10,000 ~~$3,000~~ of the principal amount; 30 ~~24~~ percent per annum on that part of the principal amount exceeding $10,000 ~~$3,000~~ and up to $20,000 ~~$4,000~~; and 24 ~~18~~ percent per annum on that part of the principal amount exceeding $20,000 ~~$4,000~~ and up to $25,000. The original principal amount as used in this section is the same as the amount financed as defined by the federal Truth in Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System. In determining compliance with the statutory

maximum interest and finance charges set forth herein, the computations used shall be simple interest and not add-on interest or any other computations. If two or more interest rates are applied to the principal amount of a loan, the licensee may charge, contract for, and receive interest at that single annual percentage rate which, if applied according to the actuarial method to each of the scheduled periodic balances of principal, would produce at maturity the same total amount of interest as would result from the application of the two or more rates otherwise permitted, based upon the assumption that all payments are made as agreed.

(3) OTHER CHARGES.—

(a) In addition to the interest, delinquency, and insurance charges provided in this section, further or other charges or amount for any examination, service, commission, or other thing or otherwise may not be directly or indirectly charged, contracted for, or received as a condition to the grant of a loan, except:

1. An amount of up to $25 to reimburse a portion of the costs for investigating the character and credit of the person applying for the loan;

2. An annual fee of $25 on the anniversary date of each line-of-credit account;

3. Charges paid for the brokerage fee on a loan or line of credit of more than $10,000, title insurance, and the appraisal of real property offered as security if paid to a third party and supported by an actual expenditure;

4. Intangible personal property tax on the loan note or obligation if secured by a lien on real property;

5. The documentary excise tax and lawful fees, if any, actually and necessarily paid out by the licensee to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which may be collected when the loan is made or at any time thereafter;

6. The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the licensee in connection with the loan if the premium does not exceed the fees which would otherwise be payable, which may be collected when the loan is made or at any time thereafter;

7. Actual and reasonable attorney fees and court costs as determined by the court in which suit is filed;

8. Actual and commercially reasonable expenses for repossession, storing, repairing and placing in condition for sale, and selling of any property pledged as security; or

9. A delinquency charge for each payment in default for at least 12 ~~10~~ days if the charge is agreed upon, in writing, between the parties before imposing the charge. Delinquency charges may be imposed as follows:

a. For payments due monthly, the delinquency charge for a payment in default may not exceed $15.

b. For payments due semimonthly, the delinquency charge for a payment in default may not exceed $7.50.

c. For payments due every 2 weeks, the delinquency charge for a payment in default may not exceed $7.50 if two payments are due within the same calendar month, and may not exceed $5 if three payments are due within the same calendar month.

Any charges, including interest, in excess of the combined total

of all charges authorized and permitted by this chapter constitute a violation of chapter 687 governing interest and usury, and the penalties of that chapter apply. In the event of a bona fide error, the licensee shall refund or credit the borrower with the amount of the overcharge immediately but within 20 days after the discovery of such error.

Section 5. Subsection (5) is added to section 516.15, Florida Statutes, to read:

516.15 Duties of licensee.—Every licensee shall:

(5) In the event of a Federal Emergency Management Agency response to a Presidential Disaster Declaration in the state, if the licensee offers any assistance program to borrowers impacted by the disaster, within 10 days after the licensee's establishment of the program, send written notice to the office in either physical or electronic format and include the following information, subject to change as any additional declarations are issued or declarations are revoked:

(a) The licensed locations affected by the disaster declaration, including physical addresses, if applicable;

(b) The telephone number, e-mail address, or other contact information for the licensee;

(c) A brief description of the assistance program available to borrowers in the affected areas; and

(d) The start date, and end date if known, of the assistance program.

For purposes of this subsection, assistance programs may include, but are not limited to, deferments, forbearance, waiver of late fees, payment modification, or changing payment due

dates.

Section 6. Section 516.38, Florida Statutes, is created to read:

516.38 Annual reports by licensees.—

(1) By March 15, 2025, and each March 15 thereafter, a licensee shall file a report with the office in a form and manner prescribed by commission rule. The report must include each of the items specified in subsection (2) for the preceding calendar year using aggregated and anonymized data and without reference to any borrower's nonpublic personal information.

(2) The report must include the following information for the preceding calendar year:

(a) The number of locations held by the licensee under this chapter as of December 31 of the preceding calendar year.

(b) The number of loan originations by the licensee from all licenses held under this chapter during the preceding calendar year.

(c) The total dollar amount of loans and the number of loans outstanding with the licensee from all licenses held under this chapter as of December 31 of the preceding calendar year.

(d) The total dollar amount of loans and the number of loans in which the licensee holds a security interest in collateral as of December 31 of the preceding calendar year.

(e) The total dollar amount of loans and the number of unsecured loans as of December 31 of the preceding calendar year.

(f) The total number of loans, separated by principal amount, in the following ranges as of December 31 of the preceding calendar year:

1. Up to and including $5,000.

2. Five thousand and one dollars to $10,000.

3. Ten thousand and one dollars to $15,000.

4. Fifteen thousand and one dollars to $20,000.

5. Twenty thousand and one dollars to $25,000.

(g) The total dollar amount of loans and the number of loans charged off as of December 31 of the preceding calendar year.

(h) The total dollar amount of loans and the number of loans with delinquency status listed as:

1. Current or less than 30 days past due.

2. From 30 to 59 days past due.

3. From 60 to 89 days past due.

4. At least 90 days past due.

(3) A licensee claiming that any information submitted in the report contains a trade secret must submit to the office an accompanying affidavit in accordance with s. 655.0591 and designate the information claimed to be a trade secret pursuant to s. 655.0591.

(4) The office may publish a report of information submitted pursuant to this section, provided that all data published in the report is anonymized and aggregated from all licensees.

Section 7. Section 516.39, Florida Statutes, is created to read:

516.39 Suspension of penalties and remedial measures after federal disaster declaration.—In the event of a Federal Emergency Management Agency response to a Presidential Disaster Declaration in the state, a licensee operating in a county

designated in the declaration must suspend for a period of 90 days after the date of the initial declaration the following:

(1) The application of delinquency charges under s. 516.031(3)(a)9.

(2) Repossessions of collateral pledged to loans made under this chapter.

(3) The filing of civil actions for the collection of amounts owed for loans made under this chapter.

Section 8. For the purpose of incorporating the amendments made by this act to sections 516.02 and 516.031, Florida Statutes, in references thereto, section 516.19, Florida Statutes, is reenacted to read:

516.19 Penalties.—Any person who violates any of the provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6), or s. 516.07(1)(e) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. This act shall take effect July 1, 2024.

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The Florida Senate

APPEARANCE RECORD

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

1/22/24
Meeting Date

S. Banking & Insurance
Committee

1436 Consumer Finance Loans
Bill Number or Topic

Amendment Barcode (if applicable)

Name Scott Jenkins

Phone 850-661-0829

Address 201 E. Park Ave, Suite 200B
Street

Email scott@dacfl.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: FL Financial Services 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)

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
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1/22/24
Meeting Date

Banking & Insurance
Committee

SB 1436
Bill Number or Topic

Amendment Barcode (if applicable)

Name Austin Clancy

Phone 812.498.2593

Address 100 International Blvd Ste 16600
Street

Email austin.clancy@oneamerican.com

Baltimore MD 21202
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:

OneAmerican Financial

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

1/22/24
Meeting Date

Banking & Insurance
Committee

1436
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall

Phone 850-321-9386

Address 579 E. Call St.
Street

Email fcfep@yahoo.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:
FL Center for Fiscal & Economic Policy

☐ 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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1/22/2023
Meeting Date

Banking and Insurance
Committee

1436 - Consumer Finance
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARP - Zayne Smith

Phone 850-228-4243

Address 215 S. Monroe St., Ste. 603
Street

Email zsmith@aarp.org

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:
AARP

☐ 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 22,2024
Meeting Date

Banking & Insurance
Committee

1436
Bill Number or Topic

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Phone 850-425-1344

Address 104 S. Monroe Street
Street

Email TcgLobby@aol.com

Tallahassee FL 32301
City *State* *Zip*

Reset Form

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:
NAACP Florida State Conference

☐ 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 10, 2024

The Honorable Jim Boyd
Committee on Insurance and Banking
320 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Boyd,

I respectfully request SB 1436: Consumer Finance Loans be placed on the Committee on Insurance and Banking 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, Administrative Assistant

REPLY TO:
❒ 100 South Kentucky Avenue, Suite 260, Lakeland, Florida 33801 (863) 413-1529
❒ 312 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 1436
FINAL ACTION: Favorable
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
	X	Thompson						
	X	Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
7	2	**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:	SB 1716
INTRODUCER:	Senator Boyd
SUBJECT:	Citizens Property Insurance Corporation
DATE:	January 19, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Pre-meeting**
2.			AEG	
3.			FP	

I. Summary:

SB 1716 makes statutory changes to facilitate the transition of Citizens Property Insurance Corporation from a structure where Citizens policies are held in three different accounts (a personal lines account, commercial account, and a coastal account) to a structure where all Citizens policies are held in a single account (the Citizens account).

The bill revises Citizens eligibility criteria for any dwelling or rental property that is not a primary residence. The bill defines a "primary residence" as a 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. The bill would no longer require that an offer of coverage from a private market insurer meet the following criteria in order for such offer to render a personal lines residential risk that is not a primary residence ineligible for Citizens coverage:

- The offer must be from an authorized insurer;
- The policy offered by the authorized insurer must provide comparable coverage to that provided in a Citizens policy; and
- The premium for coverage from the authorized insurer is not more than 20 percent greater than the Citizens premium for a new Citizens policy or, for a current Citizens policyholder, the Citizens renewal premium.

The bill also allows surplus lines insurers that have an "A" financial strength rating from A.M Best to make "take-out" offers to primary residences if the surplus lines insurer's take out plan is approved by the Office of Insurance Regulation and the surplus lines insurer's personal lines residential risk program is managed by a Florida resident surplus lines broker.

The bill limits to primary residences the policyholder choice provisions of s. 627.3517, F.S., which generally[1] provide a Citizens personal lines residential policyholder the right to remain with their agent if the agent is unable or unwilling to accept an appointment with the assuming insurer.

The bill applies provisions governing agent commissions when an agent is unwilling or unable to accept an appointment with an authorized insurer that has made a successful take-out offer to an agents for a risk that is a non-primary residence or a commercial residential risk if the agent fails to be licensed as a surplus lines agent that has made a successful take-out offer. In that situation the insurer assuming the policy must pay the producing agent the greater of the insurer's usual and customary agent commission or Citizens' usual and customary agent commission.

The bill also allows surplus lines insurers meeting the aforementioned criteria to make offers of commercial residential coverage (an example of which is a condominium association policy) that render the risk ineligible for Citizens if the offer is at the surplus lines insurer's approved rate and the policy includes wind coverage. Under current law, which is unchanged by the bill, offers from authorized or admitted insurers will only render such risks ineligible for Citizens if the policy offered by the insurer provides comparable coverage to a Citizens policy and the premium for such policy is not more than the Citizens premium for a new Citizens policy or, for a current Citizens policyholder, the Citizens renewal premium.

The bill also:

- Revises the signed acknowledgment of potential policyholder surcharge and assessment liability that agents must obtain from an applicant for Citizens coverage for the purpose of conforming the revised surcharge and assessment liabilities associated with the reorganization of Citizens into a single account.
- Provides that the executive director of Citizens is the Agency head of Citizens for purposes of procurement bid protests under s. 287.057, F.S., and authorizes the executive director to appoint a designee to act on his or her behalf for all purposes under the that statute.
- Deletes language prohibiting the application of the Division of Administrative Hearing's bond requirements related to Citizens bid protest hearings.
- Authorizes Citizens to exempt from assessment liability the policyholders of a surplus lines carrier that takes policies out of Citizens under a depopulation program.
- Allows licensed surplus lines agents access to confidential and exempt claims files for the purpose of considering whether to write a risk currently insured by Citizens.
- Authorizes Citizens to share its claims data with the National Insurance Crime Bureau (NICB), so long as the NICB maintains the confidentiality of certain documents.
- Authorizes Citizens to acquire patents, trademarks, and copyrights on work products and take action to enforce its rights therein.
- Provides that the eligibility requirements detailed in s. 627.3518, F.S., the Citizens clearinghouse statute, only apply to primary residences as defined by the bill.
- Makes technical and clarifying changes.

[1] Policyholder choice does not apply to new applicants for Citizens coverage who receive an offer from an authorized insurer through the Citizens clearinghouse under s. 627.3518, F.S.

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.[2] Citizens is not a private insurance company.[3] 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).[4]

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.[5] The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board.[6] The Governor appoints an additional member who serves solely to advocate on behalf of the consumer.[7] 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.[8] 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.[9] Risks not meeting the statutory eligibility requirements cannot be insured by Citizens. Citizens has additional eligibility requirements set out in their underwriting rules. These rules are approved by the OIR and are set out in Citizens' underwriting manuals.[10]

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

[2] The term "admitted market" means insurance companies licensed to transact insurance in Florida.
[3] Section 627.351(6)(a)1., F.S.
[4] Section 2, ch. 2002-240, Laws of Fla.
[5] Section 627.351(6)(a)2., F.S.
[6] Section 627.351(6)(c)4.a., F.S.
[7] Section 627.351(6)(c)4., F.S.
[8] Corporate Analytics Business Overview, September 20, 2023 Report, p.1 https://www.citizensfla.com/documents (last visited January 10, 2024).
[9] Section 627.351(6)(c)5., F.S.
[10] *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).

premium by 20 percent or more. [11] 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.[12] 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.[13]

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.[14] 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.[15] 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.[16]

Citizens "Glidepath" Rates

From 2007 until 2010, Citizens' rates were frozen by statute at the level that had been established in 2006.[17] 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.[18] In 2021, the Legislature revised this glidepath to increase it one percent per year to up to 15 percent, as follows:[19]

- 11 percent for 2022.
- 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.[20] In addition to the overall glidepath rate increase, Citizens can increase its rates to recover the

[11] Section 627.351(6)(c)5., F.S.
[12] Section 627.351(6)(c)5.a., F.S.
[13] *Id.*
[14] Section 627.351(6)(a)3., F.S.
[15] Section 627.351(6)(a)3.d., F.S.
[16] 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).
[17] Section 15, ch. 2006-12, Laws of Fla.
[18] Section 10, ch. 2009-87, Laws of Fla.
[19] Section 627.351(6)(n)5., F.S.
[20] Section 627.351(6)(n)7., F.S.

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.[21] 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.[22]

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.[23] In the event of a catastrophic storm or series of smaller storms, reserves could be exhausted, leaving Citizens unable to pay all claims.[24] Under Florida law, if the Citizens' Board of Directors determines a Citizens' account has a projected deficit, Citizens is authorized to levy assessments[25] on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.[26]

Citizens' Accounts

Citizens has three different accounts through which it offers property insurance: a personal lines account, a commercial lines account, and a coastal account.

The Personal Lines Account (PLA) offers personal lines residential policies that provide comprehensive, multi-peril coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided to homeowners, mobile home owners, dwellings, tenants, and condominium unit owner's policies.[27]

The Commercial Lines Account (CLA) offers commercial lines residential and non-residential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained

[21] Section 627.351(6)(n)6., F.S.
[22] Section 627.351(6)(n)8., F.S.
[23] Citizens, *2023 Rate Kit*, https://www.citizensfla.com/documents/ (last visited January 10, 2024).
[24] Citizens, *Insurance/Insurance 101/Assessments*, https://www.citizensfla.com/assessments (last visited January 10, 2024).
[25] Assessments are charges that Citizens and non-Citizens policyholders can be required to pay, in addition to their regular policy premiums.
[26] 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.
[27] *See* s. 627.351(6)(b)2.a., F.S.,; Citizens, *Account History and Characteristics*, https://www.citizensfla.com/documents/20702/1183352/20160315+05A+Citizens+Account+History.pdf/31f51358-7105-40e9-aa75-597f51a99563 (Mar. 2016) (last visited Dec. 4, 2022).

within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial non-residential policies covering business properties.[28]

The Coastal Account offers personal residential, commercial residential, and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multi-peril policies.[29]

The Legislature has authorized Citizens to combine its three accounts into a single account, which will ensure that Citizens has access to all of its assets to pay loss claims. The new account is referred to as the Citizens account and will offer the various coverages and policies provided pursuant to the three account structure.

The Citizens policyholder eligibility clearinghouse program was established by the Legislature in 2013.[30] Under the program, new and renewal policies for Citizens are placed into the clearinghouse where participating private insurers can review and decide to make offers of coverage before policies are placed or renewed with Citizens.[31] An applicant for new coverage, or an insured for renewed coverage, is not eligible for coverage from Citizens if the premium offered from an authorized insurer is at or below the eligibility threshold for new personal lines residential risks of more than 20 percent.[32] An applicant for coverage who was declared ineligible for coverage at renewal by Citizens in the previous 36 months must be considered a renewal under the Citizens' clearinghouse statute if the authorized insurer making the offer continues to insure the applicant and increased the rate higher than allowed under s. 627.351(6)(n)5., F.S.[33]

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.[34] In 2016, the Legislature passed requirements that Citizens, by January 1, 2017, amend its operations relating to take-out agreements.[35] 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:

- Publishes a periodic schedule of cycles during which an insurer may identify, and notify Citizens of, policies the insurer is requesting to take out;[36]
- 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

[28] *Id.*
[29] *Id.*
[30] Section 10, ch. 2013-60, Laws of Fla.
[31] Section 627.3518(2)-(3), F.S.
[32] Section 627.3518(5), F.S.
[33] *Id.*
[34] Section 627.351(6)(q)3.a., F.S.
[35] Chapter 2016-229, Laws of Fla.
[36] 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.

- 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 Assessment Authority

Under the single account structure, in the event Citizens has insufficient funds to pay claims, the corporation must impose a policyholder surcharge of up to 15 percent of premium on policyholders of the corporation. If the maximum policyholder surcharge is imposed and Citizens is still in a deficit, then it must impose an emergency assessment of up to 10% per year on assessable statewide premium on both private market insureds and Citizens insureds. The emergency assessments may be imposed for as many years as is necessary to resolve the Citizens deficit.

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.[37] The implementation of this requirement is based on as schedule.[38] 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.[39]

[37] Section 627.351(6)(aa), F.S.
[38] *Id.*
[39] Section 627.351(6)(aa)3., F.S.

III. Effect of Proposed Changes:

SB 1716 makes statutory changes to facilitate the transition of Citizens Property Insurance Corporation from a structure where Citizens policies are held in three different accounts (a personal lines account, commercial account, and a coastal account) to a structure where all Citizens policies are held in a single account (the Citizens account).

The bill revises Citizens eligibility criteria for any dwelling or rental property that is not a primary residence. The bill defines a "primary residence" as a 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. The bill would no longer require that an offer of coverage from a private market insurer meet the following criteria in order for such offer to render a personal lines residential risk that is not a primary residence ineligible for Citizens coverage:

- The offer must be from an authorized insurer;
- The policy offered by the authorized insurer must provide comparable coverage to that provided in a Citizens policy; and
- The premium for coverage from the authorized insurer is not more than 20 percent greater than the Citizens premium for a new Citizens policy or, for a current Citizens policyholder, the Citizens renewal premium.

The bill also allows surplus lines insurers that have an "A" financial strength rating from A.M Best to make "take-out" offers to primary residences if the surplus lines insurer's take out plan is approved by the Office of Insurance Regulation and the surplus lines insurer's personal lines residential risk program is managed by a Florida resident surplus lines broker.

The bill limits to primary residences the policyholder choice provisions of s. 627.3517, F.S., which generally[40] provide a Citizens personal lines residential policyholder the right to remain with their agent if the agent is unable or unwilling to accept an appointment with the assuming insurer.

The bill applies provisions governing agent commissions when an agent is unwilling or unable to accept an appointment with an authorized insurer that has made a successful take-out offer to an agents for a risk that is a non-primary residence or a commercial residential risk if the agent fails to be licensed as a surplus lines agent that has made a successful take-out offer. In that situation the insurer assuming the policy must pay the producing agent the greater of the insurer's usual and customary agent commission or Citizens' usual and customary agent commission.

The bill also allows surplus lines insurers meeting the aforementioned criteria to make offers of commercial residential coverage (an example of which is a condominium association policy) that render the risk ineligible for Citizens if the offer is at the surplus lines insurer's approved rate and the policy includes wind coverage. Under current law, which is unchanged by the bill, offers from authorized or admitted insurers will only render such risks ineligible for Citizens if the policy offered by the insurer provides comparable coverage to a Citizens policy and the premium

[40] Policyholder choice does not apply to new applicants for Citizens coverage who receive an offer from an authorized insurer through the Citizens clearinghouse under s. 627.3518, F.S.

for such policy is not more than the Citizens premium for a new Citizens policy or, for a current Citizens policyholder, the Citizens renewal premium.

The bill also:

- Revises the signed acknowledgment of potential policyholder surcharge and assessment liability that agents must obtain from an applicant for Citizens coverage for the purpose of conforming the revised surcharge and assessment liabilities associated with the reorganization of Citizens into a single account.
- Provides that the executive director of Citizens is the Agency head of Citizens for purposes of procurement bid protests under s. 287.057, F.S., and authorizes the executive director to appoint a designee to act on his or her behalf for all purposes under the that statute.
- Deletes language prohibiting the application of the Division of Administrative Hearing's bond requirements related to Citizens bid protest hearings.
- Authorizes Citizens to exempt from assessment liability the policyholders of a surplus lines carrier that takes policies out of Citizens under a depopulation program.
- Allows licensed surplus lines agents access to confidential and exempt claims files for the purpose of considering whether to write a risk currently insured by Citizens.
- Authorizes Citizens to share its claims data with the National Insurance Crime Bureau (NICB), so long as the NICB maintains the confidentiality of certain documents.
- Authorizes Citizens to acquire patents, trademarks, and copyrights on work products and take action to enforce its rights therein.
- Provides that the eligibility requirements detailed in s. 627.3518, F.S., the Citizens clearinghouse statute, only apply to primary residences as defined by the bill.
- Makes technical and clarifying changes.
- 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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill should revert to current law at lines 2656-2661, which correctly refers to the replacement value of a dwelling for purposes of implementing the requirement that Citizens personal lines policyholders maintain flood insurance.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.351, 627.3511, and 627.3518.

IX. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Boyd

20-01288B-24 20241716__

A bill to be entitled

An act relating to Citizens Property Insurance Corporation; amending s. 627.351, F.S.; providing that certain accounts for Citizens Property Insurance Corporation revenues, assets, liability, losses, and expenses are now maintained as the Citizens account; revising the requirements for certain coverages by the corporation; requiring the inclusion of quota share primary insurance in certain policies; deleting provisions relating to legislative goals; revising the definition of the term "assessments"; deleting provisions relating to emergency assessments upon determination of projected deficits; deleting provisions relating to funds available to the corporation as sources of revenue and bonds; deleting definitions; deleting provisions relating to the duties of the Florida Surplus Lines Service Office; deleting provisions relating to disposition of excess amounts of assessments and surcharges; defining terms; providing nonapplicability of certain provisions relating to personal lines residential risks coverage by the corporation; requiring insurers to pay, under certain circumstances, producing agents a certain amount or fee if the agents are unable to accept appointment due to failure to be licensed as surplus lines agents; providing nonapplicability of such payment requirement; revising eligibility for commercial lines residential risks coverage by the corporation; providing that commercial lines

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residential risks are not eligible for coverage by the corporation under certain circumstances; providing that comparisons of comparable coverages under certain personal lines residential risks and commercial lines residential risks do not apply to policies that do not cover primary residences; revising the corporation's plan of operation; revising the required statements from applicants for coverage; revising the duties of the executive director of the corporation; authorizing the executive director to assign and appoint designees; deleting a nonapplicability provision relating to bond requirements; providing circumstances under which coverage rates are considered not competitive; revising the duties of the Office of Insurance Regulation relating to coverage rates; authorizing the corporation to pursue administrative challenges relating to coverage rates; revising requirements for coverage rate increases and coverage rates; authorizing assessed insureds of certain insurers to be relieved from assessments under certain circumstances; deleting provisions relating to certain insurer assessment deferments; deleting provisions relating to the intangibles of and coverage by the Florida Windstorm Underwriting Association and the corporation coastal account; authorizing the corporation and certain persons to make specified information obtained from underwriting files and confidential claims files available to licensed surplus lines agents; prohibiting such agents from

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

using such information for specified purposes; revising the flood coverage requirements for personal lines residential policyholders; providing nonapplicability of provisions relating to take-out offers that are part of applications to participate in depopulation; authorizing the corporation to share its claims data with a specified entity; deleting provisions relating to resolutions of disputes and to determinations of risks ineligible for coverage; amending s. 627.3511, F.S.; conforming provisions to changes made by the act; conforming cross-references; amending s. 627.3518, F.S.; providing nonapplicability of provisions relating to noneligibility for coverage by the corporation; providing an effective date.

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

Section 1. Present subsection (7) of section 627.351, Florida Statutes, is redesignated as subsection (8), a new subsection (7) is added to that section, paragraph (nn) is added to subsection (6) of that section, and paragraph (b) of subsection (2) and paragraphs (a), (b), (c), (e), (n), (o), (p), (q), (v), (w), (x), (z), (aa), (ii), (ll), and (mm) of subsection (6) are amended, to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(b) The department shall require all insurers holding a certificate of authority to transact property insurance on a direct basis in this state, other than joint underwriting

associations and other entities formed pursuant to this section, to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage, which may include formation of an association for this purpose. As used in this subsection, the term "property insurance" means insurance on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners multiperil, commercial multiperil, and mobile homes, and including liability coverages on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1)(a) other than insurance on mobile homes used as permanent dwellings. The department shall adopt rules that provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties. An applicant or policyholder is eligible for coverage only if an offer of coverage cannot be obtained by or for the applicant or policyholder from an admitted insurer at approved rates.

2.a.(I) All insurers required to be members of such

association shall participate in its writings, expenses, and losses. Surplus of the association shall be retained for the payment of claims and shall not be distributed to the member insurers. Such participation by member insurers shall be in the proportion that the net direct premiums of each member insurer written for property insurance in this state during the preceding calendar year bear to the aggregate net direct premiums for property insurance of all member insurers, as reduced by any credits for voluntary writings, in this state during the preceding calendar year. For the purposes of this subsection, the term "net direct premiums" means direct written premiums for property insurance, reduced by premium for liability coverage and for the following if included in allied lines: rain and hail on growing crops; livestock; association direct premiums booked; National Flood Insurance Program direct premiums; and similar deductions specifically authorized by the plan of operation and approved by the department. A member's participation shall begin on the first day of the calendar year following the year in which it is issued a certificate of authority to transact property insurance in the state and shall terminate 1 year after the end of the calendar year during which it no longer holds a certificate of authority to transact property insurance in the state. The commissioner, after review of annual statements, other reports, and any other statistics that the commissioner deems necessary, shall certify to the association the aggregate direct premiums written for property insurance in this state by all member insurers.

(II) Effective July 1, 2002, the association shall operate subject to the supervision and approval of a board of governors

who are the same individuals that have been appointed by the Treasurer to serve on the board of governors of the Citizens Property Insurance Corporation.

(III) The plan of operation shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment of a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

(IV) A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

(V) There shall be no credits or relief from apportionment to a company for emergency assessments collected from its policyholders under sub-sub-subparagraph d.(III).

(VI) The plan of operation may also provide for the award of credits, for a period not to exceed 3 years, from a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II) as an incentive for taking policies out of the Residential Property and Casualty Joint Underwriting Association. In order to qualify for the exemption under this sub-sub-subparagraph, the take-out plan must provide that at least 40 percent of the policies removed from the Residential Property and Casualty Joint Underwriting Association cover risks located in Miami-Dade, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Miami-Dade, Broward, and Palm Beach Counties and an additional 50 percent of the policies so removed cover risks located in other coastal counties, and must also provide that no

more than 15 percent of the policies so removed may exclude windstorm coverage. With the approval of the department, the association may waive these geographic criteria for a take-out plan that removes at least the lesser of 100,000 Residential Property and Casualty Joint Underwriting Association policies or 15 percent of the total number of Residential Property and Casualty Joint Underwriting Association policies, provided the governing board of the Residential Property and Casualty Joint Underwriting Association certifies that the take-out plan will materially reduce the Residential Property and Casualty Joint Underwriting Association's 100-year probable maximum loss from hurricanes. With the approval of the department, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association.

b. Assessments to pay deficits in the association under this subparagraph shall be included as an appropriate factor in the making of rates as provided in s. 627.3512.

c. The Legislature finds that the potential for unlimited deficit assessments under this subparagraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for paying regular assessments and collecting emergency assessments for any

deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

d.(I) When the deficit incurred in a particular calendar year is 10 percent or less of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the deficit.

(II) When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for member insurers. Any remaining deficit shall be recovered through emergency assessments under sub-sub-subparagraph (III).

(III) Upon a determination by the board of directors that a deficit exceeds the amount that will be recovered through regular assessments on member insurers, pursuant to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the board shall levy, after verification by the department, emergency assessments to be collected by member insurers and by underwriting associations created pursuant to this section which write property insurance, upon issuance or renewal of property insurance policies other than National Flood Insurance policies in the year or years following levy of the regular assessments. The amount of the emergency assessment collected in a particular

year shall be a uniform percentage of that year's direct written premium for property insurance for all member insurers and underwriting associations, excluding National Flood Insurance policy premiums, as annually determined by the board and verified by the department. The department shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, each member insurer and each underwriting association created pursuant to this section shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. The emergency assessments so collected shall be transferred directly to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for property insurance written by member insurers and underwriting associations for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit. The board may pledge the proceeds of the emergency assessments under this sub-sub-subparagraph as the source of revenue for bonds, to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. The emergency

assessments under this sub-sub-subparagraph shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the document governing such bonds or other indebtedness. Emergency assessments collected under this sub-sub-subparagraph are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

(IV) Each member insurer's share of the total regular assessments under sub-sub-subparagraph (I) or sub-sub-subparagraph (II) shall be in the proportion that the insurer's net direct premium for property insurance in this state, for the year preceding the assessment bears to the aggregate statewide net direct premium for property insurance of all member insurers, as reduced by any credits for voluntary writings for that year.

(V) If regular deficit assessments are made under sub-sub-subparagraph (I) or sub-sub-subparagraph (II)~~, or by the Residential Property and Casualty Joint Underwriting Association under sub-subparagraph (6)(b)3.a.~~, the association shall levy upon the association's policyholders, as part of its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for property insurance for member insurers for the prior calendar year. Market equalization

surcharges under this sub-sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the association, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the association and insurers responsible for apportionment of plan losses. Any such unit of local government may enter into such contracts with the association and with any other entity created pursuant to this subsection as are

necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer. The authority granted by this sub-subparagraph is additional to any bonding authority granted by subparagraph 6.

3. The plan shall also provide that any member with a surplus as to policyholders of $25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the department, within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a member company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any

apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds $50 million after payment of available plan funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-sub-subparagraph 2.d.(III). The plan shall provide that, if the department determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-sub-subparagraph 2.d.(III).

4. The plan shall provide for the deferment, in whole or in part, of a regular assessment of a member insurer under sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not for an emergency assessment collected from policyholders under sub-sub-subparagraph 2.d.(III), if, in the opinion of the commissioner, payment of such regular assessment would endanger or impair the solvency of the member insurer. In the event a regular assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5.a. The plan of operation may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

b. It is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and not competitive with approved rates charged in the admitted voluntary market such that the association functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. The plan of operation shall provide a mechanism to assure that, beginning no later than January 1, 1999, the rates charged by the association for each line of business are reflective of approved rates in the voluntary market for hurricane coverage for each line of business in the various areas eligible for association coverage.

c. The association shall provide for windstorm coverage on residential properties in limits up to $10 million for commercial lines residential risks and up to $1 million for personal lines residential risks. If coverage with the association is sought for a residential risk valued in excess of these limits, coverage shall be available to the risk up to the replacement cost or actual cash value of the property, at the option of the insured, if coverage for the risk cannot be located in the authorized market. The association must accept a commercial lines residential risk with limits above $10 million or a personal lines residential risk with limits above $1 million if coverage is not available in the authorized market. The association may write coverage above the limits specified in this subparagraph with or without facultative or other reinsurance coverage, as the association determines appropriate.

d. The plan of operation must provide objective criteria and procedures, approved by the department, to be uniformly

applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

(I) Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

(II) Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the association pursuant to such criteria and procedures must be construed as the private placement of insurance, and the provisions of chapter 120 do not apply.

e. If the risk accepts an offer of coverage through the market assistance program or through a mechanism established by the association, either before the policy is issued by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the association is not currently appointed by the insurer, the insurer shall:

(I) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the

insurer's or the association's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I). Subject to the provisions of s. 627.3517, the policies issued by the association must provide that if the association obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy must be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this sub-subparagraph.

f. When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(I) Pay to the producing agent of record of the association policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the association policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

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

6.a. The plan of operation may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, a partnership, a trust, a limited liability company, or a nonprofit mutual company which may be empowered, among other things, to borrow money by issuing bonds or by incurring other indebtedness and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan may authorize all actions necessary to facilitate the issuance of bonds, including the pledging of assessments or other revenues.

b. Any entity created under this subsection, or any entity formed for the purposes of this subsection, may sue and be sued, may borrow money; issue bonds, notes, or debt instruments; pledge or sell assessments, market equalization surcharges and other surcharges, rights, premiums, contractual rights, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, and other assets as security for such bonds, notes, or debt instruments; enter into any contracts or agreements necessary or proper to accomplish such borrowings; and take other actions necessary to carry out

the purposes of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (6)(q)2., in the absence of a hurricane or other weather-related event, upon a determination by the association subject to approval by the department that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. Any such entity may accumulate reserves and retain surpluses as of the end of any association year to provide for the payment of losses incurred by the association during that year or any future year. The association shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, and as subsequently modified consistent with chapter 76-96. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96 shall be construed to be the assets and obligations of the successor plan created herein.

c. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness issued or incurred by the association or any other entity created under this subsection.

7. On such coverage, an agent's remuneration shall be that amount of money payable to the agent by the terms of his or her contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

8. Subject to approval by the department, the association may establish different eligibility requirements and operational procedures for any line or type of coverage for any specified eligible area or portion of an eligible area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the association. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

9. Notwithstanding any other provision of law:

a. The pledge or sale of, the lien upon, and the security interest in any rights, revenues, or other assets of the association created or purported to be created pursuant to any financing documents to secure any bonds or other indebtedness of the association shall be and remain valid and enforceable, notwithstanding the commencement of and during the continuation

of, and after, any rehabilitation, insolvency, liquidation, bankruptcy, receivership, conservatorship, reorganization, or similar proceeding against the association under the laws of this state or any other applicable laws.

b. No such proceeding shall relieve the association of its obligation, or otherwise affect its ability to perform its obligation, to continue to collect, or levy and collect, assessments, market equalization or other surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or any other rights, revenues, or other assets of the association pledged.

c. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assessments, emergency assessments, market equalization or renewal surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of or after any such proceeding shall continue unaffected by such proceeding.

d. As used in this subsection, the term "financing documents" means any agreement, instrument, or other document now existing or hereafter created evidencing any bonds or other indebtedness of the association or pursuant to which any such bonds or other indebtedness has been or may be issued and pursuant to which any rights, revenues, or other assets of the association are pledged or sold to secure the repayment of such bonds or indebtedness, together with the payment of interest on such bonds or such indebtedness, or the payment of any other

obligation of the association related to such bonds or indebtedness.

e. Any such pledge or sale of assessments, revenues, contract rights or other rights or assets of the association shall constitute a lien and security interest, or sale, as the case may be, that is immediately effective and attaches to such assessments, revenues, contract, or other rights or assets, whether or not imposed or collected at the time the pledge or sale is made. Any such pledge or sale is effective, valid, binding, and enforceable against the association or other entity making such pledge or sale, and valid and binding against and superior to any competing claims or obligations owed to any other person or entity, including policyholders in this state, asserting rights in any such assessments, revenues, contract, or other rights or assets to the extent set forth in and in accordance with the terms of the pledge or sale contained in the applicable financing documents, whether or not any such person or entity has notice of such pledge or sale and without the need for any physical delivery, recordation, filing, or other action.

f. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, agents or employees of the association, members of the board of directors of the association, or the department or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any willful tort.

(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 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 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.~~

b. The requirements of sub-subparagraph a. ~~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.

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers; however, insureds who procure one or more subject

lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An insurer's assessment liability begins on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and terminates 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

2.~~a.~~ All revenues, assets, liabilities, losses, and expenses of the corporation shall be maintained in the Citizens account. The Citizens account may provide ~~divided into three separate accounts as follows~~:

a.~~(I) A personal lines account for~~ Personal residential policies that provide ~~issued by the corporation which provides~~ comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas;

b.~~(II) A commercial lines account for~~ Commercial residential and commercial nonresidential policies that provide ~~issued by the corporation which provides~~ coverage for basic property perils on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

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c.~~(III) A coastal account for~~ Personal residential policies and commercial residential and commercial nonresidential property policies ~~issued by the corporation which provides~~ coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. The corporation may offer policies that provide multiperil coverage and shall offer policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002 ~~in the coastal account~~. ~~Effective July 1, 2014,~~ The corporation may not offer ~~shall cease offering~~ new commercial residential policies providing multiperil coverage but ~~and~~ shall ~~instead~~ continue to offer commercial residential wind-only policies, and may offer commercial residential policies excluding wind. However, the corporation may~~, however,~~ continue to renew a commercial residential multiperil policy on a building that was ~~is~~ insured by the corporation on June 30, 2014, under a multiperil policy. In issuing multiperil coverage under this sub-subparagraph, the corporation may use its approved policy forms and rates for risks located in areas not eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas ~~the personal lines account~~. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's

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or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. The following policies, which provide coverage only for the peril of wind, must also include quota share primary insurance under subparagraph (c)2.:

(I) Personal residential policies and commercial residential and commercial nonresidential property policies that provide coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002;

(II) Policies that provide multiperil coverage, if offered by the corporation, and policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002;

(III) Commercial residential wind-only policies;

(IV) Commercial residential policies excluding wind, if offered by the corporation; and

(V) Commercial residential multiperil policies on a building that was insured by the corporation on June 30, 2014 ~~It is the goal of the Legislature that there be an overall average~~

~~savings of 10 percent or more for a policyholder who currently has a wind-only policy with the corporation, and an ex-wind policy with a voluntary insurer or the corporation, and who obtains a multiperil policy from the corporation. It is the intent of the Legislature that the offer of multiperil coverage in the coastal account be made and implemented in a manner that does not adversely affect the tax-exempt status of the corporation or creditworthiness of or security for currently outstanding financing obligations or credit facilities of the coastal account, the personal lines account, or the commercial lines account. The coastal account must also include quota share primary insurance under subparagraph (c)2.~~

The area eligible for coverage with the corporation under this sub-subparagraph ~~under the coastal account also~~ includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property.

3. With respect to a deficit in the Citizens account:

a. Upon a determination by the board of governors that the Citizens account has a projected deficit, the board shall levy a Citizens policyholder surcharge against all policyholders of the corporation.

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

(II) The surcharge is payable upon cancellation or termination of the policy, upon renewal of the policy, or upon issuance of a new policy by the corporation within the first 12

months after the date of the levy or the period of time necessary to fully collect the surcharge amount.

(III) The surcharge is not considered premium and is not subject to commissions, fees, or premium taxes. However, failure to pay the surcharge shall be treated as failure to pay premium.

~~b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. If no such financing obligations remain outstanding or if the financing documents allow for combining of accounts, the corporation may consolidate the three separate accounts into a new account, to be known as the Citizens account, for all revenues, assets, liabilities, losses, and expenses of the corporation. The Citizens account, if established by the corporation, is authorized to provide coverage to the same extent as provided under each of the three separate accounts. The authority to provide coverage under the Citizens account is set forth in subparagraph 4. Consistent with this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or obtain the approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan for consolidating the three separate accounts into a single account. Once the accounts are combined into one account, this subparagraph and subparagraph 3. shall be replaced in their entirety by subparagraphs 4. and 5.~~

~~c. Creditors of the Residential Property and Casualty Joint~~

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~~Underwriting Association and the accounts specified in sub-sub-subparagraphs a.(I) and (II) may have a claim against, and recourse to, those accounts and no claim against, or recourse to, the account referred to in sub-sub-subparagraph a.(III). Creditors of the Florida Windstorm Underwriting Association have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).~~

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

~~e. The Legislature finds that the revenues of the corporation are revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds under this subsection.~~

~~f. The income of the corporation may not inure to the benefit of any private person.~~

~~3. With respect to a deficit in an account:~~

~~a. After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph j., if the remaining projected deficit incurred in the coastal account in a particular calendar year:~~

~~(I) Is not greater than 2 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit shall be recovered through regular assessments of assessable insurers under paragraph (q) and assessable insureds.~~

~~(II) Exceeds 2 percent of the aggregate statewide direct~~

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~~written premium for the subject lines of business for the prior calendar year, the corporation shall levy regular assessments on assessable insurers under paragraph (q) and on assessable insureds in an amount equal to the greater of 2 percent of the projected deficit or 2 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year. Any remaining projected deficit shall be recovered through emergency assessments under sub-subparagraph e.~~

~~b. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. must be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraph a. must be paid as required by the corporation's plan of operation and paragraph (q). Assessments levied by the corporation on assessable insureds under sub-subparagraph a. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932, and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to that office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the~~

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~~assessments directly to the corporation as determined by the corporation.~~

~~c. The corporation may not levy regular assessments under paragraph (q) pursuant to sub-subparagraph a. or sub-subparagraph b. if the three separate accounts in sub-sub-subparagraphs 2.a.(I)-(III) have been consolidated into the Citizens account pursuant to sub-subparagraph 2.b. However, the outstanding balance of any regular assessment levied by the corporation before establishment of the Citizens account remains payable to the corporation.~~

b.~~d.~~ After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph a. ~~j.~~, the remaining projected deficits in the Citizens ~~personal lines~~ account a~~nd in the commercial lines account~~ in a particular calendar year shall be recovered through emergency assessments under sub-subparagraph c ~~e~~.

c.~~e.~~ Upon a determination by the board of governors that a projected deficit in the Citizens ~~an~~ account exceeds the amount that is expected to be recovered through surcharges ~~regular assessments under sub-subparagraph a., plus the amount that is expected to be recovered through surcharges under sub-subparagraph j.~~, the board, after verification by the office, shall levy emergency assessments for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance Program policies. The amount collected in a particular year must be a uniform percentage of that year's direct written premium for subject lines of business

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and the Citizens account ~~all accounts of the corporation, excluding~~ National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. The office shall notify assessable insurers and the Florida Surplus Lines Service Office of the date on which assessable insurers shall begin to collect and assessable insureds shall begin to pay such assessment. The date must be at least 90 days after the date the corporation levies emergency assessments pursuant to this sub-subparagraph. Notwithstanding any other ~~provision of~~ law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to that office. The emergency assessments collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and held by the corporation solely in the Citizens ~~applicable~~ account. The aggregate amount of emergency assessments levied for the Citizens ~~an~~ account in any calendar year may be less than but may not exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs

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associated with financing the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and the Citizens account ~~all accounts~~ of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.

d.~~f.~~ The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (q), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes emergency ~~regular~~ assessments under sub-subparagraph c. ~~a. or subparagraph (q)1. and emergency assessments under sub-subparagraph c.~~ Emergency assessments collected under sub-subparagraph c. ~~c.~~ are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments shall continue as long as any bonds issued or other

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indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or indebtedness.

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

f.~~h.~~ The Florida Surplus Lines Service Office shall annually determine ~~annually~~ the aggregate statewide written premium in subject lines of business procured by assessable insureds and report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.

g.~~i.~~ The Florida Surplus Lines Service Office shall verify

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the proper application by surplus lines agents of assessment percentages for ~~regular assessments and~~ emergency assessments levied under this subparagraph on assessable insureds and assist the corporation in ensuring the accurate, timely collection and payment of assessments by surplus lines agents as required by the corporation.

~~j. Upon determination by the board of governors that an account has a projected deficit, the board shall levy a Citizens policyholder surcharge against all policyholders of the corporation.~~

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

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

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

~~(IV) The surcharge is not considered premium and is not subject to commissions, fees, or premium taxes. However, failure to pay the surcharge shall be treated as failure to pay premium.~~

h.~~k.~~ If the amount of any assessments or surcharges collected from corporation policyholders, assessable insurers or their policyholders, or assessable insureds exceeds the amount

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of the deficits, such excess amounts shall be remitted to and retained by the corporation in a reserve to be used by the corporation, as determined by the board of governors and approved by the office, to pay claims or reduce any past, present, or future plan-year deficits or to reduce outstanding debt.

~~4. The Citizens account, if established by the corporation pursuant to sub-subparagraph 2.b., is authorized to provide:~~

~~a. Personal residential policies that provide comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas;~~

~~b. Commercial residential and commercial nonresidential policies that provide coverage for basic property perils on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas; and~~

~~c. Personal residential policies and commercial residential and commercial nonresidential property policies that provide coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002. The corporation may offer policies that provide multiperil coverage and shall offer policies that provide coverage only for the peril of wind for risks located in areas~~

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~~eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002. The corporation may not offer new commercial residential policies providing multiperil coverage, but shall continue to offer commercial residential wind-only policies, and may offer commercial residential policies excluding wind. However, the corporation may continue to renew a commercial residential multiperil policy on a building that was insured by the corporation on June 30, 2014, under a multiperil policy. In issuing multiperil coverage under this sub-subparagraph, the corporation may use its approved policy forms and rates for risks located in areas not eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. The following policies, which provide coverage only for the peril of wind, must also include quota share primary insurance under~~

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~~subparagraph (c)2.: Personal residential policies and commercial residential and commercial nonresidential property policies that provide coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002; policies that provide multiperil coverage, if offered by the corporation, and policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002; commercial residential wind-only policies; commercial residential policies excluding wind, if offered by the corporation; and commercial residential multiperil policies on a building that was insured by the corporation on June 30, 2014. The area eligible for coverage with the corporation under this sub-subparagraph includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property.~~

~~5. With respect to a deficit in the Citizens account:~~

~~a. Upon a determination by the board of governors that the Citizens account has a projected deficit, the board shall levy a Citizens policyholder surcharge against all policyholders of the corporation.~~

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

~~(II) The surcharge is payable upon cancellation or termination of the policy, upon renewal of the policy, or upon~~

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~~issuance of a new policy by the corporation within the first 12 months after the date of the levy or the period of time necessary to fully collect the surcharge amount.~~

~~(III) The surcharge is not considered premium and is not subject to commissions, fees, or premium taxes. However, failure to pay the surcharge shall be treated as failure to pay premium.~~

~~b. After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph a., the remaining projected deficit incurred in the Citizens account in a particular calendar year shall be recovered through emergency assessments under sub-subparagraph c.~~

~~c. Upon a determination by the board of governors that a projected deficit in the Citizens account exceeds the amount that is expected to be recovered through surcharges under sub-subparagraph a., the board, after verification by the office, shall levy emergency assessments for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance Program policies. The amount collected in a particular year must be a uniform percentage of that year's direct written premium for subject lines of business and the Citizens account, National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. The office shall notify assessable insurers and the Florida Surplus Lines Service Office of the date on which~~

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~~assessable insurers shall begin to collect and assessable insureds shall begin to pay such assessment. The date must be at least 90 days after the date the corporation levies emergency assessments pursuant to this sub-subparagraph. Notwithstanding any other law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to that office. The emergency assessments collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and held by the corporation solely in the Citizens account. The aggregate amount of emergency assessments levied for the Citizens account in any calendar year may be less than, but may not exceed the greater of, 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit or 10 percent of the aggregate statewide direct written premium for subject lines of business and the Citizens accounts for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.~~

~~d. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder~~

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~~surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (q), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection; or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes emergency assessments under sub-subparagraph c. Emergency assessments collected under sub-subparagraph c. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or indebtedness.~~

~~c. As used in this subsection and for purposes of any deficit incurred on or after January 25, 2007, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in this~~

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~~sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers under s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.~~

~~f. The Florida Surplus Lines Service Office shall annually determine the aggregate statewide written premium in subject lines of business procured by assessable insureds and report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.~~

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

~~h. If the amount of any assessments or surcharges collected from corporation policyholders, assessable insurers or their policyholders, or assessable insureds exceeds the amount of the deficits, such excess amounts shall be remitted to and retained by the corporation in a reserve to be used by the corporation,~~

~~as determined by the board of governors and approved by the office, to pay claims or reduce any past, present, or future plan-year deficits or to reduce outstanding debt.~~

(c) The corporation's plan of operation:

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

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

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

c. Commercial lines residential and nonresidential policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential structures in the admitted voluntary market.

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002.

e. Commercial lines nonresidential property insurance forms

that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002.

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

g. The corporation shall offer a basic personal lines policy similar to an HO-8 policy with dwelling repair based on common construction materials and methods.

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

a. As used in this subsection, the term:

(I) "Approved rate" means:

(A) With respect to an authorized insurer that holds a certificate of authority, such insurer's filed and approved rate.

(B) With respect to an authorized insurer that is an eligible surplus lines insurer, the rate approved by the office as part of such insurer's take-out plan.

(II) "Authorized insurer" means:

(A) An insurer holding a certificate of authority; or

(B) An eligible surplus lines insurer that is "A" or higher by A.M. Best Company and whose Florida personal lines residential or commercial lines residential risk program is

managed by a Florida resident surplus lines broker.

(IV) "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.

(V) ~~(I)~~ "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the agreement, may not be altered by the inability of the other party to pay its specified percentage of losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that the authorized insurer and the corporation may not be held responsible beyond their specified percentage of coverage of hurricane losses.

(III) ~~(II)~~ "Eligible risks" means personal lines residential and commercial lines residential risks that meet the underwriting criteria of the corporation and are located in

areas that were eligible for coverage by the Florida Windstorm Underwriting Association on January 1, 2002.

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

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

d. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation must provide for a uniform specified percentage of coverage of hurricane losses, by county or territory as set forth by the corporation board, for all eligible risks of the authorized insurer covered under the agreement.

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

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under such agreements, the corporation and the authorized insurer must maintain complete

and accurate records for the purpose of exposure and loss reimbursement audits as required by fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

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

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer is voluntary and at the discretion of the authorized insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation may borrow funds by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements

of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (q)2. in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation may take all actions needed to facilitate tax-free status for such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation may pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of nine individuals who are residents of this state and who are from different geographical areas of the state, one of whom is

appointed by the Governor and serves solely to advocate on behalf of the consumer. The appointment of a consumer representative by the Governor is deemed to be within the scope of the exemption provided in s. 112.313(7)(b) and is in addition to the appointments authorized under sub-subparagraph a.

a. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance and be deemed to be within the scope of the exemption provided in s. 112.313(7)(b). The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. However, for the first term beginning on or after July 1, 2009, each appointing officer shall appoint one member of the board for a 2-year term and one member for a 3-year term. A board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may

require, subject to review and concurrence by the board.

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

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

(II) The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

5. Must provide a procedure for determining the eligibility

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of a risk for coverage, as follows:

a. Subject to s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a personal lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer, if the offer is equal to or less than the corporation's renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation for policies that renew before April 1, 2023; for policies that renew on or after that date, the risk is not eligible for coverage with the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage. If the risk is not able to obtain such offer, the risk is eligible for a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk is eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of

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objective standards specified in the underwriting manual and based on generally accepted underwriting practices. A policyholder removed from the corporation through an assumption agreement does not remain eligible for coverage from the corporation after the end of the policy term. However, any policy removed from the corporation through an assumption agreement remains on the corporation's policy forms through the end of the policy term. However, notwithstanding any other provision of law, this sub-subparagraph does not apply to a policy that does not cover a primary residence.

(I) If the risk accepts an offer of coverage through the market assistance plan or through a mechanism established by the corporation other than a plan established by s. 627.3518, before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:

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

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

If the producing agent is unwilling or unable to accept appointment for any reason, including the failure of such agent to be licensed as a surplus line agent, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

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

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

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

If the producing agent is unwilling or unable to accept appointment for any reason, including the failure of such agent to be licensed as a surplus lines agent, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A). This sub-sub-subparagraph does not apply to an authorized insurer that is an eligible surplus lines insurer.

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an admitted ~~authorized~~ insurer at its approved rate, the risk is not eligible for a policy issued by the corporation unless the

premium for coverage from the admitted ~~authorized~~ insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a commercial lines residential risk is received for a policyholder of the corporation at renewal from an admitted ~~authorized~~ insurer, the risk is not eligible for coverage with the corporation unless the premium for coverage from the admitted ~~authorized~~ insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. A policyholder removed from the corporation through an assumption agreement remains eligible for coverage from the corporation until the end of the policy term. However, any policy removed from the corporation through an assumption agreement remains on the corporation's policy forms through the end of the policy term. With respect to commercial lines residential risks for a new application to the corporation for coverage, if the risk is offered coverage from an eligible surplus lines insurer at the insurer's approved rate under a policy including wind coverage, the risk is not eligible for a policy issued by the corporation. If an offer of coverage for a commercial lines residential risk is received for a policyholder of the corporation by an eligible surplus lines insurer at renewal, the risk is not eligible for coverage with the corporation.

(I) If the risk accepts an offer of coverage through the market assistance plan or through a mechanism established by the corporation other than a plan established by s. 627.3518, before

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a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or the corporation is not currently appointed by the insurer, the insurer shall:

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

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

If the producing agent is unwilling or unable to accept appointment for any reason, including the failure of such agent to be licensed as a surplus lines agent, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A). This sub-sub-subparagraph does not apply to an authorized insurer that is an eligible surplus lines insurer.

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

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

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equal to the usual and customary commission of the corporation; or

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

If the producing agent is unwilling or unable to accept appointment for any reason, including the failure of such agent to be licensed as a surplus line agent, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

c. For purposes of determining comparable coverage under sub-subparagraphs a. and b., the comparison must be based on those forms and coverages that are reasonably comparable. The corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the corporation, made in the agent's capacity as the corporation's agent. For purposes of comparing the premium for comparable coverage under sub-subparagraphs a. and b., premium includes any surcharge or assessment that is actually applied to such policy. A comparison may be made solely of the premium with respect to the main building or structure only on the following basis: the same Coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the corporation and the authorized insurer; the same mitigation credits, to the extent the same types of credits are offered both by the

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corporation and the authorized insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the corporation and the authorized insurer in accordance with underwriting rules; and any other form or coverage that is reasonably comparable as determined by the board. If an application is submitted to the corporation for wind-only coverage on a risk that is located in an area eligible for coverage by the Florida Windstorm Underwriting Association, as that area was defined on January 1, 2002, the premium for the corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant must be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the corporation or the applicant requests from the authorized insurer a breakdown of the premium of the offer by types of coverage so that a comparison may be made by the corporation or its agent and the authorized insurer refuses or is unable to provide such information, the corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate. However, notwithstanding any other provision of law, this sub-subparagraph does not apply to a policy that does not cover a primary residence.

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

7. Must provide that if premium and investment income~~:~~

~~a.~~ for the Citizens ~~an~~ account, which are attributable to a particular calendar year are in excess of projected losses and

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expenses for the Citizens account attributable to that year, such excess shall be held in surplus in the Citizens account. Such surplus must be available to defray deficits in the Citizens ~~that~~ account as to future years and used for that purpose before assessing assessable insurers and assessable insureds as to any calendar year~~; or~~

~~b. For the Citizens account, if established by the corporation, which are attributable to a particular calendar year are in excess of projected losses and expenses for the Citizens account attributable to that year, such excess shall be held in surplus in the Citizens account. Such surplus must be available to defray deficits in the Citizens account as to future years and used for that purpose before assessing assessable insurers and assessable insureds as to any calendar year~~.

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

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

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

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

9. Must provide that the corporation make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100-year probable maximum loss as determined by the board of governors. If catastrophe reinsurance is not available at reasonable rates, the corporation need not purchase it, but the corporation shall include the costs of reinsurance to cover its projected 100-year probable maximum loss in its rate calculations even if it does not purchase catastrophe reinsurance.

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

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

12. May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain

insurance through the voluntary market through ordinary methods continue to have access to coverage from the corporation. If coverage is sought in connection with a real property transfer, the requirements and procedures may not provide an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

13. ~~Must provide that:~~

~~a. With respect to the coastal account, any assessable insurer with a surplus as to policyholders of $25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the coastal account may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds, but a limited apportionment company must begin collecting the regular assessments not later than 90 days after the regular assessments are levied by the corporation, and the regular assessments must be paid in full within 15 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.c. The plan must provide that, if the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph~~

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~~(q)4. However, an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.c. may not be limited or deferred; or~~

~~b. With respect to the Citizens account, if established by the corporation pursuant to sub-subparagraph (b)2.b., any assessable insurer with a surplus as to policyholders of $25 million or less and writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)5.c. An emergency assessment to be collected from policyholders under sub-subparagraph (b)5.c. may not be limited or deferred.~~

~~14.~~ Must provide that the corporation appoint as its licensed agents only those agents who throughout such appointments also hold an appointment as defined in s. 626.015 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to write and are ~~is~~ actually writing or renewing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

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

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

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16.~~17.~~ Must provide coverage for manufactured or mobile home dwellings. Such coverage must also include the following attached structures:

a. Screened enclosures that are aluminum framed or screened enclosures that are not covered by the same or substantially the same materials as those of the primary dwelling;

b. Carports that are aluminum or carports that are not covered by the same or substantially the same materials as those of the primary dwelling; and

c. Patios that have a roof covering that is constructed of materials that are not the same or substantially the same materials as those of the primary dwelling.

The corporation shall make available a policy for mobile homes or manufactured homes for a minimum insured value of at least $3,000.

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

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

19.~~20.~~ Must provide that new or renewal policies issued by the corporation on or after January 1, 2012, which cover sinkhole loss do not include coverage for any loss to appurtenant structures, driveways, sidewalks, decks, or patios that are directly or indirectly caused by sinkhole activity. The corporation shall exclude such coverage using a notice of coverage change, which may be included with the policy renewal, and not by issuance of a notice of nonrenewal of the excluded

coverage upon renewal of the current policy.

20.a.~~21.a.~~ ~~As of January 1, 2012, unless the Citizens account has been established pursuant to sub-subparagraph (b)2.b.,~~ Must require that the agent obtain from an applicant for coverage from the corporation an acknowledgment signed by the applicant, which includes, at a minimum, the following statement:

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
AND ASSESSMENT LIABILITY:

1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER SURCHARGE, WHICH COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE

FLORIDA LEGISLATURE.

4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE STATE OF FLORIDA.

~~b. The corporation must require, if it has established the Citizens account pursuant to sub-subparagraph (b)2.b., that the agent obtain from an applicant for coverage from the corporation the following acknowledgment signed by the applicant, which includes, at a minimum, the following statement:~~

~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:~~

~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.~~

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~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE STATE OF FLORIDA.~~

b.~~c.~~ The corporation shall maintain, in electronic format or otherwise, a copy of the applicant's signed acknowledgment and provide a copy of the statement to the policyholder as part of the first renewal after the effective date of sub-subparagraph a. ~~or sub-subparagraph b., as applicable.~~

c.~~d.~~ The signed acknowledgment form creates a conclusive presumption that the policyholder understood and accepted his or her potential surcharge and assessment liability as a policyholder of the corporation.

(e) The corporation is subject to s. 287.057 for the purchase of commodities and contractual services except as otherwise provided in this paragraph. Services provided by tradepersons or technical experts to assist a licensed adjuster in the evaluation of individual claims are not subject to the procurement requirements of this section. Additionally, the procurement of financial services providers and underwriters must be made pursuant to s. 627.3513. Contracts for goods or services valued at or more than $100,000 are subject to approval by the board.

1. The corporation is an agency for purposes of s. 287.057, except that, for purposes of s. 287.057(24), the corporation is

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an eligible user.

a. The authority of the Department of Management Services and the Chief Financial Officer under s. 287.057 extends to the corporation as if the corporation were an agency.

b. The executive director of the corporation is the agency head under s. 287.057~~, except for resolution of bid protests for which the board would serve as the agency head~~. The executive director of the corporation may assign or appoint a designee to act on his or her behalf.

2. The corporation must provide notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase by electronic posting. Such notice must contain the following statement: "Failure to file a protest within the time prescribed in this section constitutes a waiver of proceedings."

a. A person adversely affected by the corporation's decision or intended decision to award a contract pursuant to s. 287.057(1) or (3)(c) who elects to challenge the decision must file a written notice of protest with the executive director of the corporation within 72 hours after the corporation posts a notice of its decision or intended decision. For a protest of the terms, conditions, and specifications contained in a solicitation, including provisions governing the methods for ranking bids, proposals, replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest must be filed in writing within 72 hours after posting the solicitation. Saturdays, Sundays, and state holidays are excluded in the computation of the 72-hour time period.

b. A formal written protest must be filed within 10 days after the date the notice of protest is filed. The formal written protest must state with particularity the facts and law upon which the protest is based. Upon receipt of a formal written protest that has been timely filed, the corporation must stop the solicitation or contract award process until the subject of the protest is resolved by final board action unless the executive director sets forth in writing particular facts and circumstances that require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(I) The corporation must provide an opportunity to resolve the protest by mutual agreement between the parties within 7 business days after receipt of the formal written protest.

(II) If the subject of a protest is not resolved by mutual agreement within 7 business days, the corporation's board must transmit the protest to the Division of Administrative Hearings and contract with the division to conduct a hearing to determine the merits of the protest and to issue a recommended order. The contract must provide for the corporation to reimburse the division for any costs incurred by the division for court reporters, transcript preparation, travel, facility rental, and other customary hearing costs in the manner set forth in s. 120.65(9). The division has jurisdiction to determine the facts and law concerning the protest and to issue a recommended order. The division's rules and procedures apply to these proceedings~~, the division's applicable bond requirements do not apply~~. The protest must be heard by the division at a publicly noticed

meeting in accordance with procedures established by the division.

c. In a protest of an invitation-to-bid or request-for-proposals procurement, submissions made after the bid or proposal opening which amend or supplement the bid or proposal may not be considered. In protesting an invitation-to-negotiate procurement, submissions made after the corporation announces its intent to award a contract, reject all replies, or withdraw the solicitation that amends or supplements the reply may not be considered. Unless otherwise provided by law, the burden of proof rests with the party protesting the corporation's action. In a competitive-procurement protest, other than a rejection of all bids, proposals, or replies, the administrative law judge must conduct a de novo proceeding to determine whether the corporation's proposed action is contrary to the corporation's governing statutes, the corporation's rules or policies, or the solicitation specifications. The standard of proof for the proceeding is whether the corporation's action was clearly erroneous, contrary to competition, arbitrary, or capricious. In any bid-protest proceeding contesting an intended corporation action to reject all bids, proposals, or replies, the standard of review by the board is whether the corporation's intended action is illegal, arbitrary, dishonest, or fraudulent.

d. Failure to file a notice of protest or failure to file a formal written protest constitutes a waiver of proceedings.

3. The ~~board, acting as~~ agency head or his or her designee~~,~~ shall consider the recommended order of an administrative law judge ~~in a public meeting~~ and take final action on the protest. Any further legal remedy lies with the First District Court of

Appeal.

(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.

b.~~c.~~ Fourteen percent for 2025.

c.~~d.~~ Fifteen percent for 2026 and all subsequent years.

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 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. 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, and may not be charged ~~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.

(o) If coverage in ~~an account, or~~ the Citizens account ~~if established by the corporation,~~ is deactivated pursuant to paragraph (p), coverage through the corporation shall be reactivated by order of the office only under one of the following circumstances:

1. If the market assistance plan receives a minimum of 100 applications for coverage within a 3-month period, or 200

applications for coverage within a 1-year period or less for residential coverage, unless the market assistance plan provides a quotation from authorized ~~admitted~~ carriers at their approved ~~filed~~ rates for at least 90 percent of such applicants. Any market assistance plan application that is rejected because an individual risk is so hazardous as to be uninsurable using the criteria specified in subparagraph (c)8. shall not be included in the minimum percentage calculation provided herein. In the event that there is a legal or administrative challenge to a determination by the office that the conditions of this subparagraph have been met for eligibility for coverage in the corporation, any eligible risk may obtain coverage during the pendency of such challenge.

2. In response to a state of emergency declared by the Governor under s. 252.36, the office may activate coverage by order for the period of the emergency upon a finding by the office that the emergency significantly affects the availability of residential property insurance.

(p)1. The corporation shall file with the office quarterly statements of financial condition, an annual statement of financial condition, and audited financial statements in the manner prescribed by law. In addition, the corporation shall report to the office monthly on the types, premium, exposure, and distribution by county of its policies in force, and shall submit other reports as the office requires to carry out its oversight of the corporation.

2. The activities of the corporation shall be reviewed at least annually by the office to determine whether coverage shall be deactivated in ~~an account, or in~~ the Citizens account ~~if~~

~~established by the corporation,~~ on the basis that the conditions giving rise to its activation no longer exist.

(q)1. The corporation shall certify to the office its needs for annual assessments as to a particular calendar year, and for any interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments shall be prorated, if authority to levy exists, as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessments due from each assessable insurer, including, if prudent, filing suit to collect the assessments, and the office may provide such assistance to the corporation it deems appropriate. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is considered to be a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time

to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds under this subparagraph may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the corporation. Any such unit of local government may enter into such contracts with the corporation and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this subparagraph shall be payable from and secured by moneys received by the corporation from emergency assessments under sub-subparagraph (b)3.c. ~~(b)3.c.~~, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds.

3.a. The corporation shall adopt one or more programs

subject to approval by the office for the reduction of both new and renewal writings in the corporation. Beginning January 1, 2008, any program the corporation adopts for the payment of bonuses to an insurer for each risk the insurer removes from the corporation shall comply with s. 627.3511(2) and may not exceed the amount referenced in s. 627.3511(2) for each risk removed. The corporation may consider any prudent and not unfairly discriminatory approach to reducing corporation writings, and may adopt a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the corporation and to keep risks out of the corporation by maintaining or increasing voluntary writings in counties or areas in which corporation risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the corporation by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments ~~under sub-subparagraph (b)3.a~~. In addition, in the event policies are taken out by an authorized insurer that is an eligible surplus lines insurer, such insurer's assessable insureds may also be relieved wholly or partially from assessments. However, any "take-out bonus" or payment to an insurer must be conditioned on the property being insured for at least 5 years by the insurer, unless canceled or nonrenewed by the policyholder. If the policy is canceled or nonrenewed by the policyholder before the end of the 5-year period, the amount of the take-out bonus must be prorated for the time period the policy was insured. When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any

unearned commission on such policy, and the insurer shall either:

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

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the insurer's usual and customary commission for the type of policy written. If the producing agent is unwilling or unable to accept appointment by the new insurer for any reason, including to the failure of such agent to be licensed as a surplus lines agent, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

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

c. There shall be no credit, limitation, exemption, or deferment from emergency assessments to be collected from policyholders pursuant to sub-subparagraph (b)3.c. ~~sub-subparagraph (b)3.e. or sub-subparagraph (b)5.c.~~

4. ~~The plan shall provide for the deferment, in whole or in~~

~~part, of the assessment of an assessable insurer, other than an emergency assessment collected from policyholders pursuant to sub-subparagraph (b)3.c. or sub-subparagraph (b)5.c., if the office finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an assessable insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other assessable insurers in a manner consistent with the basis for assessments set forth in paragraph (b).~~

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

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

6.~~7.~~ For a policy taken out, assumed, or removed from the corporation, the insurer may, for a period of no more than 3 years, continue to use any of the corporation's policy forms or endorsements that apply to the policy taken out, removed, or assumed without obtaining approval from the office for use of such policy form or endorsement.

(v)1. Effective July 1, 2002, policies of the Residential Property and Casualty Joint Underwriting Association become policies of the corporation. All obligations, rights, assets and liabilities of the association, including bonds, note and debt obligations, and the financing documents pertaining to them become those of the corporation as of July 1, 2002. The corporation is not required to issue endorsements or certificates of assumption to insureds during the remaining term of in-force transferred policies.

2. Effective July 1, 2002, policies of the Florida Windstorm Underwriting Association are transferred to the corporation and become policies of the corporation. All obligations, rights, assets, and liabilities of the association, including bonds, note and debt obligations, and the financing documents pertaining to them are transferred to and assumed by the corporation on July 1, 2002. The corporation is not required to issue endorsements or certificates of assumption to insureds during the remaining term of in-force transferred policies.

3. The Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association shall take all actions necessary to further evidence the transfers and provide the documents and instruments of further assurance as may reasonably be requested by the corporation for that purpose. The corporation shall execute assumptions and instruments as the trustees or other parties to the financing documents of the Florida Windstorm Underwriting Association or the Residential Property and Casualty Joint Underwriting Association may reasonably request to further evidence the transfers and assumptions, which transfers and assumptions,

however, are effective on the date provided under this paragraph whether or not, and regardless of the date on which, the assumptions or instruments are executed by the corporation. ~~Subject to the relevant financing documents pertaining to their outstanding bonds, notes, indebtedness, or other financing obligations, the moneys, investments, receivables, choses in action, and other intangibles of the Florida Windstorm Underwriting Association shall be credited to the coastal account of the corporation, and those of the personal lines residential coverage account and the commercial lines residential coverage account of the Residential Property and Casualty Joint Underwriting Association shall be credited to the personal lines account and the commercial lines account, respectively, of the corporation.~~

4. Effective July 1, 2002, a new applicant for property insurance coverage who would otherwise have been eligible for coverage in the Florida Windstorm Underwriting Association is eligible for coverage from the corporation as provided in this subsection.

5. The transfer of all policies, obligations, rights, assets, and liabilities from the Florida Windstorm Underwriting Association to the corporation and the renaming of the Residential Property and Casualty Joint Underwriting Association as the corporation does not affect the coverage with respect to covered policies as defined in s. 215.555(2)(c) provided to these entities by the Florida Hurricane Catastrophe Fund. ~~The coverage provided by the fund to the Florida Windstorm Underwriting Association based on its exposures as of June 30, 2002, and each June 30 thereafter, unless the corporation has~~

~~established the Citizens account, shall be redesignated as coverage for the coastal account of the corporation. Notwithstanding any other provision of law, the coverage provided by the fund to the Residential Property and Casualty Joint Underwriting Association based on its exposures as of June 30, 2002, and each June 30 thereafter, unless the corporation has established the Citizens account, shall be transferred to the personal lines account and the commercial lines account of the corporation. Notwithstanding any other provision of law, the coastal account, unless the corporation has established the Citizens account, shall be treated, for all Florida Hurricane Catastrophe Fund purposes, as if it were a separate participating insurer with its own exposures, reimbursement premium, and loss reimbursement. Likewise, the personal lines and commercial lines accounts, unless the corporation has established the Citizens account, shall be viewed together, for all fund purposes, as if the two accounts were one and represent a single, separate participating insurer with its own exposures, reimbursement premium, and loss reimbursement.~~ The coverage provided by the fund to the corporation shall constitute and operate as a full transfer of coverage from the Florida Windstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association to the corporation.

(w) Notwithstanding any other provision of law:

1. The pledge or sale of, the lien upon, and the security interest in any rights, revenues, or other assets of the corporation created or purported to be created pursuant to any financing documents to secure any bonds or other indebtedness of the corporation shall be and remain valid and enforceable,

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notwithstanding the commencement of and during the continuation of, and after, any rehabilitation, insolvency, liquidation, bankruptcy, receivership, conservatorship, reorganization, or similar proceeding against the corporation under the laws of this state.

2. The proceeding does not relieve the corporation of its obligation, or otherwise affect its ability to perform its obligation, to continue to collect, or levy and collect, assessments, policyholder surcharges or other surcharges ~~under sub-subparagraph (b)3.j.~~, or any other rights, revenues, or other assets of the corporation pledged pursuant to any financing documents.

3. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assessments, policyholder surcharges or other surcharges, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of, or after, any such proceeding shall continue unaffected by such proceeding. As used in this subsection, the term "financing documents" means any agreement or agreements, instrument or instruments, or other document or documents now existing or hereafter created evidencing any bonds or other indebtedness of the corporation or pursuant to which any such bonds or other indebtedness has been or may be issued and pursuant to which any rights, revenues, or other assets of the corporation are pledged or sold to secure the repayment of such bonds or indebtedness, together with the payment of interest on such bonds or such indebtedness, or the payment of any other obligation or financial product, as defined

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in the plan of operation of the corporation related to such bonds or indebtedness.

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

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

6. If ordered by a court of competent jurisdiction, the corporation may assume policies or otherwise provide coverage for policyholders of an insurer placed in liquidation under chapter 631, under such forms, rates, terms, and conditions as the corporation deems appropriate, subject to approval by the office.

(x)1. The following records of the corporation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Underwriting files, except that a policyholder or an applicant shall have access to his or her own underwriting files. Confidential and exempt underwriting file records may also be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided herein.

b. Claims files, until termination of all litigation and settlement of all claims arising out of the same incident, although portions of the claims files may remain exempt, as otherwise provided by law. Confidential and exempt claims file records may be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided herein.

c. Records obtained or generated by an internal auditor pursuant to a routine audit, until the audit is completed, or if the audit is conducted as part of an investigation, until the investigation is closed or ceases to be active. An investigation is considered “active” while the investigation is being

conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings.

d. Matters reasonably encompassed in privileged attorney-client communications.

e. Proprietary information licensed to the corporation under contract and the contract provides for the confidentiality of such proprietary information.

f. All information relating to the medical condition or medical status of a corporation employee which is not relevant to the employee's capacity to perform his or her duties, except as otherwise provided in this paragraph. Information that is exempt shall include, but is not limited to, information relating to workers' compensation, insurance benefits, and retirement or disability benefits.

g. Upon an employee's entrance into the employee assistance program, a program to assist any employee who has a behavioral or medical disorder, substance abuse problem, or emotional difficulty that affects the employee's job performance, all records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided in s. 112.0455(11).

h. Information relating to negotiations for financing, reinsurance, depopulation, or contractual services, until the conclusion of the negotiations.

i. Minutes of closed meetings regarding underwriting files, and minutes of closed meetings regarding an open claims file until termination of all litigation and settlement of all claims

with regard to that claim, except that information otherwise confidential or exempt by law shall be redacted.

2. If an authorized insurer is considering underwriting a risk insured by the corporation, relevant underwriting files and confidential claims files may be released to the insurer provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. If a file is transferred to an insurer, that file is no longer a public record because it is not held by an agency subject to the provisions of the public records law. Underwriting files and confidential claims files may also be released to staff and the board of governors of the market assistance plan established pursuant to s. 627.3515, who must retain the confidentiality of such files, except such files may be released to authorized insurers that are considering assuming the risks to which the files apply, provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. Finally, the corporation or the board or staff of the market assistance plan may make the following information obtained from underwriting files and confidential claims files available to an entity that has obtained a permit to become an authorized insurer, a reinsurer that may provide reinsurance under s. 624.610, a licensed reinsurance broker, a licensed rating organization, a modeling company, a licensed surplus lines agent, or a licensed general lines insurance agent: name, address, and telephone number of the residential property owner or insured; location of the risk; rating information; loss history; and policy type. The receiving person must retain the confidentiality of the information received and may use the

information only for the purposes of developing a take-out plan or a rating plan to be submitted to the office for approval or otherwise analyzing the underwriting of a risk or risks insured by the corporation on behalf of the private insurance market. A licensed surplus lines agent licensed general lines insurance agent may not use such information for the direct solicitation of policyholders.

3. A policyholder who has filed suit against the corporation has the right to discover the contents of his or her own claims file to the same extent that discovery of such contents would be available from a private insurer in litigation as provided by the Florida Rules of Civil Procedure, the Florida Evidence Code, and other applicable law. Pursuant to subpoena, a third party has the right to discover the contents of an insured's or applicant's underwriting or claims file to the same extent that discovery of such contents would be available from a private insurer by subpoena as provided by the Florida Rules of Civil Procedure, the Florida Evidence Code, and other applicable law, and subject to any confidentiality protections requested by the corporation and agreed to by the seeking party or ordered by the court. The corporation may release confidential underwriting and claims file contents and information as it deems necessary and appropriate to underwrite or service insurance policies and claims, subject to any confidentiality protections deemed necessary and appropriate by the corporation.

4. Portions of meetings of the corporation are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution wherein confidential underwriting files or confidential open claims files are discussed. All portions of

corporation meetings which are closed to the public shall be recorded by a court reporter. The court reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of any closed meeting shall be off the record. Subject to the provisions hereof and s. 119.07(1)(d)-(f), the court reporter's notes of any closed meeting shall be retained by the corporation for a minimum of 5 years. A copy of the transcript, less any exempt matters, of any closed meeting wherein claims are discussed shall become public as to individual claims after settlement of the claim.

(z) In enacting the provisions of this section, the Legislature recognizes that both the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association have entered into financing arrangements that obligate each entity to service its debts and maintain the capacity to repay funds secured under these financing arrangements. It is the intent of the Legislature that nothing in this section be construed to compromise, diminish, or interfere with the rights of creditors under such financing arrangements. It is further the intent of the Legislature to preserve the obligations of the Florida Windstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association with regard to outstanding financing arrangements, with such obligations passing entirely and unchanged to the corporation and, specifically, to the Citizens ~~applicable~~ account ~~of the corporation~~. So long as any bonds, notes, indebtedness, or other

financing obligations of the Florida Windstorm Underwriting Association or the Residential Property and Casualty Joint Underwriting Association are outstanding, under the terms of the financing documents pertaining to them, the governing board of the corporation shall have and shall exercise the authority to levy, charge, collect, and receive all premiums, assessments, surcharges, charges, revenues, and receipts that the associations had authority to levy, charge, collect, or receive under the provisions of subsection (2) and this subsection, respectively, as they existed on January 1, 2002, to provide moneys, without exercise of the authority provided by this subsection, in at least the amounts, and by the times, as would be provided under those former provisions of subsection (2) or this subsection, respectively, so that the value, amount, and collectability of any assets, revenues, or revenue source pledged or committed to, or any lien thereon securing such outstanding bonds, notes, indebtedness, or other financing obligations will not be diminished, impaired, or adversely affected by the amendments made by this act and to permit compliance with all provisions of financing documents pertaining to such bonds, notes, indebtedness, or other financing obligations, or the security or credit enhancement for them, and any reference in this subsection to bonds, notes, indebtedness, financing obligations, or similar obligations, of the corporation shall include like instruments or contracts of the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association to the extent not inconsistent with the provisions of the financing documents pertaining to them.

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(aa) Except as otherwise provided in this paragraph, the corporation shall require the securing and maintaining of flood insurance as a condition of coverage of a personal lines residential risk. The insured or applicant must execute a form approved by the office affirming that flood insurance is not provided by the corporation and that if flood insurance is not secured by the applicant or insured from an insurer other than the corporation and in addition to coverage by the corporation, the risk will not be eligible for coverage by the corporation. The corporation may deny coverage of a personal lines residential risk to an applicant or insured who refuses to secure and maintain flood insurance. The requirement to purchase flood insurance shall be implemented as follows:

1. Except as provided in subparagraphs 2. and 3., all personal lines residential policyholders must have flood coverage in place for policies effective on or after:

a. January 1, 2024, for property valued at ~~a structure that has a dwelling replacement cost of~~ $600,000 or more.

b. January 1, 2025, for property valued at ~~a structure that has a dwelling replacement cost of~~ $500,000 or more.

c. January 1, 2026, for property valued at ~~a structure that has a dwelling replacement cost~~ of $400,000 or more.

d. January 1, 2027, for all other personal lines residential property insured by the corporation.

2. All personal lines residential policyholders whose property insured by the corporation is located within the special flood hazard area defined by the Federal Emergency Management Agency must have flood coverage in place:

a. At the time of initial policy issuance for all new

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personal lines residential policies issued by the corporation on or after April 1, 2023.

b. By the time of the policy renewal for all personal lines residential policies renewing on or after July 1, 2023.

3. Policyholders are not required to purchase flood insurance as a condition for maintaining the following policies issued by the corporation:

a. Policies that do not provide coverage for the peril of wind.

b. Policies that provide coverage under a condominium unit owners form.

The flood insurance required under this paragraph must meet, at a minimum, the coverage available from the National Flood Insurance Program or the requirements of subparagraphs s. 627.715(1)(a)1., 2., and 3.

(ii) The corporation shall revise the programs adopted pursuant to sub-subparagraph (q)3.a. for personal lines residential policies to maximize policyholder options and encourage increased participation by insurers and agents. After January 1, 2017, a policy may not be taken out of the corporation unless the provisions of this paragraph are met.

1. The corporation must publish a periodic schedule of cycles during which an insurer may identify, and notify the corporation of, policies that the insurer is requesting to take out. A request 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.

2. The corporation must maintain and make available to the

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agent of record a consolidated list of all insurers requesting to take out a policy. The list must include a description of the coverage offered and the estimated premium for each take-out request.

3. If a policyholder receives a take-out offer from an authorized insurer, the risk is no longer eligible for coverage with the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the renewal premium for comparable coverage from the corporation pursuant to sub-subparagraph (c)5.c. This subparagraph applies to take-out offers that are part of an application to participate in depopulation submitted to the office on or after January 1, 2023. However, notwithstanding any other provision of law, this sub-subparagraph does not apply to a policy that does not cover a primary residence.

4. The corporation must provide written notice to the policyholder and the agent of record regarding all insurers requesting to take out the policy. The notice must be in a format prescribed by the corporation and include, for each take-out offer:

a. The amount of the estimated premium;

b. A description of the coverage; and

c. A comparison of the estimated premium and coverage offered by the insurer to the estimated premium and coverage provided by the corporation.

(nn) The corporation may share its claims data with the National Insurance Crime Bureau, provided that the National Insurance Crime Bureau agrees to maintain the confidentiality of such documents as otherwise provided for in paragraph (x).

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(7) TRADEMARKS, COPYRIGHTS, OR PATENTS.—Notwithstanding any other law to the contrary, the corporation is authorized, in its own name, to:

(a) Perform all things necessary to secure letters of patent, copyrights, or trademarks on any work products and enforce its rights therein.

(b) License, lease, assign, or otherwise give written consent to any person, firm, or corporation for the manufacture or use thereof, on a royalty basis or for such other consideration as the corporation deems proper.

(c) Take any action necessary, including legal action, to protect the same against improper or unlawful use or infringement.

(d) Enforce the collection of any sums due the corporation for the manufacture or use thereof by any other party.

(e) Sell any of the same and execute all instruments necessary to consummate any such sale.

(f) Do all other acts necessary and proper for the execution of powers and duties herein conferred upon the corporation in order to administer this subsection.

Section 2. Paragraphs (a), (b), and (c) of subsection (3) and paragraphs (d), (e), and (f) of subsection (6) of section 627.3511, Florida Statutes, are amended to read:

627.3511 Depopulation of Citizens Property Insurance Corporation.—

(3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

(a) The calculation of an insurer's ~~assessment~~ liability ~~under s. 627.351(6)(b)3.a.~~ shall, for an insurer that in any calendar year removes 50,000 or more risks from the Citizens

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Property Insurance Corporation, either by issuance of a policy upon expiration or cancellation of the corporation policy or by assumption of the corporation's obligations with respect to in-force policies, exclude such removed policies for the succeeding 3 years, as follows:

1. In the first year following removal of the risks, the risks are excluded from the calculation to the extent of 100 percent.

2. In the second year following removal of the risks, the risks are excluded from the calculation to the extent of 75 percent.

3. In the third year following removal of the risks, the risks are excluded from the calculation to the extent of 50 percent.

If the removal of risks is accomplished through assumption of obligations with respect to in-force policies, the corporation shall pay to the assuming insurer all unearned premium with respect to such policies less any policy acquisition costs agreed to by the corporation and assuming insurer. The term "policy acquisition costs" is defined as costs of issuance of the policy by the corporation which includes agent commissions, servicing company fees, and premium tax. This paragraph does not apply to an insurer that, at any time within 5 years before removing the risks, had a market share in excess of 0.1 percent of the statewide aggregate gross direct written premium for any line of property insurance, or to an affiliate of such an insurer. This paragraph does not apply unless either at least 40 percent of the risks removed from the corporation are located in

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Miami-Dade, Broward, and Palm Beach Counties, or at least 30 percent of the risks removed from the corporation are located in such counties and an additional 50 percent of the risks removed from the corporation are located in other coastal counties.

(b) An insurer that first wrote personal lines residential property coverage in this state on or after July 1, 1994, is exempt from liability ~~regular deficit assessments imposed pursuant to s. 627.351(6)(b)3.a.~~, but not emergency assessments collected from policyholders pursuant to s. 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.c.~~, of the Citizens Property Insurance Corporation until the earlier of the following:

1. The end of the calendar year in which it first wrote 0.5 percent or more of the statewide aggregate direct written premium for any line of residential property coverage; or

2. December 31, 1997, or December 31 of the third year in which it wrote such coverage in this state, whichever is later.

(c) Other than an insurer that is exempt under paragraph (b), an insurer that in any calendar year increases its total structure exposure subject to wind coverage by 25 percent or more over its exposure for the preceding calendar year is, with respect to that year, exempt from liability ~~deficit assessments imposed pursuant to s. 627.351(6)(b)3.a.~~, but not from emergency assessments collected from policyholders pursuant to s. 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.c.~~, of the Citizens Property Insurance Corporation attributable to such increase in exposure.

(6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

(d) The calculation of an insurer's ~~regular assessment~~ liability ~~under s. 627.351(6)(b)3.a.~~, but not emergency assessments collected from policyholders pursuant to s.

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627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.c.~~, shall, with respect to commercial residential policies removed from the corporation under an approved take-out plan, exclude such removed policies for the succeeding 3 years, as follows:

1. In the first year following removal of the policies, the policies are excluded from the calculation to the extent of 100 percent.

2. In the second year following removal of the policies, the policies are excluded from the calculation to the extent of 75 percent.

3. In the third year following removal of the policies, the policies are excluded from the calculation to the extent of 50 percent.

(e) An insurer that first wrote commercial residential property coverage in this state on or after June 1, 1996, is exempt from liability ~~regular assessments under s. 627.351(6)(b)3.a.~~, but not from emergency assessments collected from policyholders pursuant to s. 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.c.~~, with respect to commercial residential policies until the earlier of:

1. The end of the calendar year in which such insurer first wrote 0.5 percent or more of the statewide aggregate direct written premium for commercial residential property coverage; or

2. December 31 of the third year in which such insurer wrote commercial residential property coverage in this state.

(f) An insurer that is not otherwise exempt from liability ~~regular assessments under s. 627.351(6)(b)3.a.~~ with respect to commercial residential policies is, for any calendar year in which such insurer increased its total commercial residential

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hurricane exposure by 25 percent or more over its exposure for the preceding calendar year, exempt from liability ~~regular assessments under s. 627.351(6)(b)3.a.~~, but not emergency assessments collected from policyholders pursuant to s. 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.e.~~, attributable to such increased exposure.

Section 3. Subsections (5), (6), and (7) of section 627.3518, Florida Statutes, are amended to read:

627.3518 Citizens Property Insurance Corporation policyholder eligibility clearinghouse program.—The purpose of this section is to provide a framework for the corporation to implement a clearinghouse program by January 1, 2014.

(5) Notwithstanding s. 627.3517, any applicant for new coverage from the corporation is not eligible for coverage from the corporation if provided an offer of coverage from an authorized insurer through the program at a premium that is at or below the eligibility threshold for applicants for new coverage established in s. 627.351(6)(c)5.a. Whenever an offer of coverage for a personal lines risk is received for a policyholder of the corporation at renewal from an authorized insurer through the program which is at or below the eligibility threshold for policyholders of the corporation established in s. 627.351(6)(c)5.a., the risk is not eligible for coverage with the corporation. In the event an offer of coverage for a new applicant is received from an authorized insurer through the program, and the premium offered exceeds the eligibility threshold for applicants for new coverage established in s. 627.351(6)(c)5.a., the applicant or insured may elect to accept such coverage, or may elect to accept or continue coverage with

the corporation. In the event an offer of coverage for a personal lines risk is received from an authorized insurer at renewal through the program, and the premium offered exceeds the eligibility threshold for policyholders of the corporation established in s. 627.351(6)(c)5.a., the insured may elect to accept such coverage, or may elect to accept or continue coverage with the corporation. Section 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from an authorized insurer obtained through the program. However, notwithstanding any other provision of law, this subsection does not apply to a policy that does not cover a primary residence. As used in this subsection, the term "primary residence" has the same mean as in sub-subparagraph s. 627.351 (6)(c)2.a.

(6) Independent insurance agents submitting new applications for coverage or that are the agent of record on a renewal policy submitted to the program:

(a) Are granted and must maintain ownership and the exclusive use of expirations, records, or other written or electronic information directly related to such applications or renewals written through the corporation or through an insurer participating in the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted for as long as the insured remains with the agency or until sold or surrendered in writing by the agent. Contracts with the corporation or required by the corporation must not amend, modify, interfere with, or limit such rights of ownership. Such expirations, records, or other written or electronic information may be used to review an application, issue a policy, or for any other purpose necessary for placing such business through the

program.

(b) May not be required to be appointed by any insurer participating in the program for policies written solely through the program, notwithstanding the provisions of s. 626.112.

(c) May accept an appointment from any insurer participating in the program.

(d) May enter into either a standard or limited agency agreement with the insurer, at the insurer's option.

Applicants ineligible for coverage in accordance with subsection (5) remain ineligible if their independent agent is unwilling or unable for any reason, including the failure of such agent to be licensed as a surplus lines agent, to enter into a standard or limited agency agreement with an insurer participating in the program.

(7) Exclusive agents submitting new applications for coverage or that are the agent of record on a renewal policy submitted to the program:

(a) Must maintain ownership and the exclusive use of expirations, records, or other written or electronic information directly related to such applications or renewals written through the corporation or through an insurer participating in the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and (II)(B). Contracts with the corporation or required by the corporation must not amend, modify, interfere with, or limit such rights of ownership. Such expirations, records, or other written or electronic information may be used to review an application, issue a policy, or for any other purpose necessary for placing such business through the program.

(b) May not be required to be appointed by any insurer participating in the program for policies written solely through the program, notwithstanding the provisions of s. 626.112.

(c) Must only facilitate the placement of an offer of coverage from an insurer whose limited servicing agreement is approved by that exclusive agent's exclusive insurer.

(d) May enter into a limited servicing agreement with the insurer making an offer of coverage, and only after the exclusive agent's insurer has approved the limited servicing agreement terms. The exclusive agent's insurer must approve a limited service agreement for the program for any insurer for which it has approved a service agreement for other purposes.

Applicants ineligible for coverage in accordance with subsection (5) remain ineligible if their exclusive agent is unwilling or unable for any reason, including the failure of such agent to be licensed as a surplus lines agent, to enter into a standard or limited agency agreement with an insurer making an offer of coverage to that applicant.

Section 4. This act shall take effect July 1, 2024.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 1716
FINAL ACTION:
MEETING DATE: Monday, January 22, 2024
TIME: 4:00—6:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/22/2024 Temporarily Postponed 1					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Broxson						
		Burton						
		Hutson						
		Ingoglia						
		Mayfield						
		Powell						
		Thompson						
		Torres						
		Trumbull						
		DiCeglie, VICE CHAIR						
		Boyd, CHAIR						
		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:
Finance and Tax, *Chair*
Appropriations
Banking and Insurance
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:
Select Committee on Resiliency

JOINT COMMITTEE:
Joint Administrative Procedures Committee, *Alternating Chair*

Senator Blaise Ingoglia
11th District

January 19th, 2023

The Honorable Jim Boyd, Chairman
Senate Office Building
404 South Monroe Street
Tallahassee, FL. 32399-1100

Chairman Boyd,

I respectfully ask to be excused from the Committee on Banking and Insurance that will be held on Monday, January 22nd at 4:00 p.m. I have a scheduling conflict during committee.

Thank you for your consideration of this request.

Sincerely,

Blaise Ingoglia
State Senator, District 11

CC'd: James Knudson, Lisa Johnson, Amaura Canty, and Megan Ramba

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Banking and Insurance Committee **Judge:**

Started: 1/22/2024 4:00:50 PM
Ends: 1/22/2024 5:33:42 PM Length: 01:32:53

4:00:49 PM Chair DiCeglie calls meeting to order
4:00:56 PM CAA call roll
4:01:17 PM Chair DiCeglie makes opening remarks
4:01:36 PM Tab 9 - SB 1716 Temporarily Postponed
4:01:44 PM Tab 6 - SB 1104 by Senator Bradley
4:01:54 PM Senator Bradley explains the bill
4:03:07 PM No questions
4:03:14 PM Appearance forms:
4:03:17 PM George Feijoo, FL Insurance Council, speaking against
4:06:06 PM Donovan Brown, Wholesale & Specialty Insurance Assoc., waiving in opposition
4:06:11 PM Ashley Kalifeh, FL Surplus Lines Assoc., waiving in opposition
4:06:19 PM Michael Carlson, Personal Insurance Federation of FL, speaking on bill
4:08:34 PM BG Murphy, FAI, waives in support
4:08:40 PM Debate:
4:08:42 PM Senator Broxson
4:09:30 PM Senator Bradley closes on bill
4:10:40 PM CAA calls roll
4:11:06 PM SB 1104 reported favorably
4:11:13 PM Take up Tab 7 - SB 1336 by Senator Grall
4:11:25 PM Senator Grall explains the bill
4:11:55 PM Amendment #878516 by Senator Thompson
4:12:07 PM Senator Thompson explains the amendment
4:12:59 PM No questions on amendment
4:13:04 PM Appearance forms:
4:13:08 PM Kenneth Pratt, FL Bankers Assoc., speaking against amendment
4:13:57 PM Dennis Murphy, President/CEO Gulfside Bank, speaking against amendment
4:14:26 PM Dennis Murphy continues speaking
4:18:22 PM Senator Mayfield with question
4:18:30 PM Mr. Murphy answers
4:19:38 PM Senator Mayfield question
4:19:54 PM Mr. Murphy in response
4:20:46 PM Senator Mayfield
4:21:12 PM Mr. Murphy responds
4:21:52 PM Senator Thompson with question
4:22:02 PM Mr. Murphy responds
4:22:40 PM Senator Thompson with follow up
4:23:05 PM Mr. Murphy responds
4:24:10 PM Senator Thompson follow up
4:24:29 PM Mr. Murphy responds
4:26:43 PM Senator Powell with question
4:27:13 PM Mr. Murphy responds
4:27:35 PM Senator Powell question
4:27:43 PM Mr. Murphy responds
4:29:09 PM Senator Powell follow up
4:29:22 PM Mr. Murphy responds
4:30:22 PM Senator Powell follow up
4:30:33 PM Mr. Murphy responds
4:31:32 PM Senator Torres with question
4:31:47 PM Mr. Murphy responds
4:31:53 PM Senator Torres follow up
4:32:06 PM Mr. Murphy responds
4:33:43 PM Debate on amendment:

4:33:47 PM Senator Grall
4:35:59 PM Senator Thompson closes on amendment
4:39:12 PM Amendment fails
4:39:16 PM Back on bill
4:39:22 PM No questions
4:39:26 PM Appearance forms:
4:39:28 PM Yenisbel Vilorio, Six Action, waiving against
4:39:37 PM Kenneth Pratt, FL Bankers Assoc., speaking for
4:42:10 PM Lauren Stafford, Exec. Dir. Legal Aid Tallahassee, speaking on bill
4:44:43 PM Leslie Powell-Boudreaux, Ex. Dir. Legal Services North FL, speaking for information
4:47:41 PM Laura Munoz waiving against
4:47:46 PM Jackson Oberlinc, FL Rising, waiving against
4:47:54 PM Joseph "Joey" Hudgins, speaking against
4:55:28 PM Dominic MacKenzie speaking for information
4:59:30 PM Question Senator Mayfield
4:59:42 PM Mr. MacKenzie responds
5:00:29 PM Senator Thompson with question
5:00:57 PM Mr. MacKenzie responds
5:01:33 PM Dennis Murphy speaking for
5:06:03 PM Debate:
5:06:09 PM Senator Thompson
5:07:18 PM Senator Torres
5:08:21 PM Senator Powell
5:09:18 PM Senator Burton
5:10:07 PM Senator Grall closes on bill
5:13:05 PM Roll call
5:13:28 PM SB 1336 reported favorably
5:13:36 PM Chair now changed to Chair Boyd
5:13:48 PM Tab 3 - SB 1074 by Senator Calatayud presented by Senator Hutson
5:14:09 PM Senator Hutson explains the bill
5:14:27 PM Amendment #524590
5:14:40 PM Senator Hutson explains amendment
5:14:57 PM No questions
5:15:02 PM Appearance cards:
5:15:03 PM Corey Butcher, Debt Blue, waives in support
5:15:14 PM Shawn Council, waiving in support
5:15:31 PM Kelly Mallette, Consumer Debt Relief Initiative, waiving in support
5:16:01 PM Senator Hutson waives close
5:16:06 PM Amendment adopted
5:16:08 PM Back on bill as amended
5:16:13 PM No questions
5:16:18 PM Appearance forms:
5:16:22 PM Corey Butcher, Debt Blue, waiving in support
5:16:27 PM Kelly Mallette, Consumer Debt Relief, waiving in support
5:16:32 PM No debate
5:16:43 PM Roll call
5:17:02 PM SB 1074 reported favorably
5:17:09 PM Tab 1 - SB 56 by Senator Harrell
5:17:20 PM Delete all amendment #408314 explained by Senator Harrell
5:18:47 PM No questions
5:18:55 PM No debate
5:19:05 PM Amendment adopted
5:19:10 PM Back on bill as amended
5:19:16 PM Questions:
5:19:18 PM Senator Broxson
5:19:24 PM Senator Harrell
5:20:10 PM Appearance cards:
5:20:13 PM Dr. Marc Inglese, waiving in support
5:20:18 PM Karen Murillo, AARP, waiving in support
5:20:26 PM Chris Lyon, FL Osteopathic Medical Assoc., waiving in support
5:20:32 PM Jeff Scott, FL Medical Assoc., waiving in support
5:20:40 PM No debate

5:20:44 PM Senator Harrell closes on bill
5:22:27 PM Roll call
5:22:50 PM SB 56 reported favorably
5:22:54 PM Tab 2 - SB 662 by Senator Burton
5:23:02 PM Senator Burton explains the bill
5:23:38 PM Strike all #742132
5:23:50 PM Senator explains strike all
5:24:08 PM Amendment to amendment #555140 taken up
5:24:21 PM Amendment to amendment approved
5:24:30 PM No questions on amendment as amended
5:24:39 PM No debate
5:24:44 PM Amendment as amended adopted
5:24:54 PM Back on bill as amended
5:25:01 PM No questions
5:25:03 PM Appearance cards:
5:25:05 PM Karen Murill, AARP, waiving in support
5:25:15 PM No debate on bill
5:25:21 PM Senator waives close
5:25:25 PM Roll call
5:25:47 PM CS/SB 662 reported favorably
5:25:58 PM Tab 8 - SB 1436 by Senator Burton
5:26:03 PM Senator Burton explains the bill
5:26:42 PM No questions
5:26:46 PM Appearance cards:
5:26:47 PM Scott Jenkins, FL Financial Services Assoc., waives in support
5:26:56 PM Austin Clancy, OneMain Financial, waiving in support
5:27:03 PM Karen Woodall, FL Center for Fiscal & Economic Policy, waiving against
5:27:11 PM Zane smith, AARP, waiving in opposition
5:27:19 PM Pamela Burch Fort, NAACP FL State Conference, waiving against
5:27:37 PM Senator Burton closes on bill
5:28:35 PM Roll call
5:28:54 PM SB 1436 reported favorably
5:29:01 PM Tab 4 - SB 1078 by Senator DiCeglie
5:29:28 PM Senator DiCeglie explains the bill
5:29:47 PM No questions
5:29:50 PM Appearance cards:
5:29:52 PM Chase Mitchell, Dept. of Financial Services, waiving in support
5:30:04 PM No debate
5:30:07 PM Senator waives close
5:30:13 PM Roll call
5:30:31 PM SB 1078 reported favorably
5:30:40 PM Tab 5 - SB 1098 by Senator DiCeglie
5:30:45 PM Senator DiCeglie explains the bill
5:31:17 PM Delete all amendment #430616
5:31:28 PM Senator DiCeglie explains the amendment
5:31:43 PM No questions
5:31:48 PM No debate
5:31:56 PM Amendment adopted
5:32:00 PM Back on bill as amended
5:32:05 PM No questions
5:32:14 PM Appearance cards:
5:32:17 PM Chase Mitchell, Dept. of Financial Services, waiving in support
5:32:26 PM No debate
5:32:32 PM Senator waives close
5:32:40 PM Roll call
5:33:00 PM CS/SB 1098 reported favorably
5:33:15 PM Senator Thompson change vote SB 1436
5:33:30 PM Senator Trumbull moves to adjourn
5:33:35 PM Meeting adjourned