

Tab 1	SB 486 by Brodeur; (Similar to CS/H 00273) Money Services Businesses
--------------	---

Tab 2	SB 498 by Baxley (CO-INTRODUCERS) Perry, Taddeo; (Identical to H 00079) Insurance Coverage for Hearing Aids for Children
--------------	---

737986	D	S	RCS	BI, Baxley	Delete everything after	01/13 01:48 PM
--------	---	---	-----	------------	-------------------------	----------------

Tab 3	SB 578 by Hooper; (Identical to H 00837) Hurricane Loss Mitigation Program
--------------	---

794936	A	S	RCS	BI, Hooper	Delete L.11 - 15:	01/14 04:17 PM
774500	A	S	RS	BI, Brandes	btw L.72 - 73:	01/14 04:17 PM
497424	SA	S	RCS	BI, Brandes	Before L.11:	01/14 04:17 PM

Tab 4	SB 968 by Polsky; (Identical to H 00649) Individual Retirement Accounts
--------------	--

Tab 5	SB 1058 by Hutson; (Identical to H 00695) Property Insurer Reimbursements
--------------	--

518482	A	S	WD	BI, Brandes	btw L.68 - 69:	01/12 05:53 PM
116880	AA	S	00	BI, Brandes	Delete L.64:	01/12 05:53 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Wednesday, January 12, 2022

TIME: 9:30—11:30 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Boyd, Chair; Senator Broxson, Vice Chair; Senators Brandes, Burgess, Gruters, Passidomo, Rodrigues, Rouson, Stargel, Stewart, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 486 Brodeur (Similar CS/H 273)	Money Services Businesses; Revising exceptions to general laws and rules for licensees during the Financial Technology Sandbox period; defining the term “virtual currency”; revising the purpose of the Florida Control of Money Laundering in Money Services Business Act; revising criminal and civil penalties for certain violations relating to unlicensed activity involving money services businesses and deferred presentment providers; requiring money transmitters that receive virtual currency for specified purposes to hold a certain type and amount of virtual currency until the transmission obligation is completed, etc. BI 01/12/2022 Favorable AEG AP	Favorable Yeas 11 Nays 0
2	SB 498 Baxley (Identical H 79)	Insurance Coverage for Hearing Aids for Children; Providing a definition of the term “hearing aid”; requiring certain individual health insurance policies to provide coverage for hearing aids for children 21 years of age or younger under certain circumstances; specifying health care providers who may prescribe, fit, and dispense the hearing aids; requiring certain individual health maintenance contracts to provide coverage for hearing aids for children 21 years of age or younger under certain circumstances, etc. BI 01/12/2022 Fav/CS HP AP	Fav/CS Yeas 11 Nays 0
3	SB 578 Hooper (Identical H 837)	Hurricane Loss Mitigation Program; Deleting construction relating to Citizens Property Insurance Corporation coverage rates; delaying the future repeal of the Hurricane Loss Mitigation Program, etc. BI 01/12/2022 Fav/CS CA AP	Fav/CS Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Wednesday, January 12, 2022, 9:30—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 968 Polsky (Identical H 649)	Individual Retirement Accounts; Specifying that certain interests received by a transferee after a divorce are exempt from claims of creditors upon being awarded to or received by the transferee; specifying that such interests remain exempt, etc. BI 01/12/2022 Favorable JU RC	Favorable Yeas 11 Nays 0
5	SB 1058 Hutson (Identical H 695)	Property Insurer Reimbursements; Defining the term "unsound insurer"; revising requirements for coverage under the Florida Hurricane Catastrophe Fund of certain policies assumed by authorized insurers or the Citizens Property Insurance Corporation, etc. BI 01/12/2022 Favorable CA RC	Favorable Yeas 11 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 486

INTRODUCER: Senator Brodeur

SUBJECT: Money Services Businesses

DATE: January 12, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2. _____	_____	<u>AEG</u>	_____
3. _____	_____	<u>AP</u>	_____

I. Summary:

SB 486 makes several amendments to the Money Services Businesses statutes related to virtual currency. The bill:

- Defines virtual currency as a medium of exchange in electronic or digital format that is not currency;
- Subjects money transmitters to licensing requirements when transacting business involving a virtual currency; and
- Prohibits payment instrument sellers from transacting business involving virtual currency.

The bill makes additional revisions to definitions and conforming changes.

The bill takes effect January 1, 2023.

II. Present Situation:

Regulation of Money Transmitters and Payment Instrument Sellers

State Regulation

The Office of Financial Regulation (OFR) regulates banks, credit unions, other financial institutions, finance companies, and the securities industry.¹ The Division of Consumer Finance within OFR licenses and regulates various aspects of the non-depository financial services industries, including money services businesses (MSBs) regulated under ch. 560, F.S. Money transmitters and payment instrument sellers are two types of MSBs, and both are regulated under part II of ch. 560, F.S.

¹ Section 20.121(3)(a)2., F.S.

A money transmitter receives currency,² monetary value,³ or payment instruments⁴ for the purpose of transmitting the same by any 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.⁵ A payment instrument seller sells, issues, provides, or delivers a payment instrument.⁶ State and federally chartered depository institutions, such as banks and credit unions, are exempt from licensure as an MSB.⁷ Currently, virtual currency is not *expressly* within ch. 560, F.S., though in the last 7 years OFR has received over 70 petitions for declaratory statement relating to whether and how virtual currency is regulated under that chapter.⁸

An applicant for a MSB license under ch. 560, F.S., must file an application with OFR and pay an application fee of \$375.⁹ The license must be renewed every 2 years by paying a renewal fee of \$750.¹⁰ Money transmitters and payment instrument sellers may operate through authorized vendors by providing OFR with specified information about the authorized vendor and by paying a fee of \$38 per authorized vendor location at the time of application and renewal.¹¹ A money transmitter or payment instrument seller may also engage in the activities authorized for check cashers¹² and foreign currency exchangers¹³ without paying additional licensing fees.¹⁴

A money transmitter or payment instrument seller must at all times:

- Have a net worth of at least \$100,000 and an additional net worth of \$10,000 per location in this state, up to a maximum of \$2 million.¹⁵

² The term “currency” means the coin and paper money of the United States or of any other country which is designated as legal tender and which circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes United States silver certificates, United States notes, and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country. Section 560.103(11), F.S.

³ The term “monetary value” means a medium of exchange, whether or not redeemable in currency. Section 560.103(21), F.S.

⁴ The term “payment instrument” means a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, payment of money, or monetary value whether or not negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit. Section 560.103(29), F.S.

⁵ Section 560.103(23), F.S.

⁶ Section 560.103(30) and (34), F.S.; definition of “payment instrument”, *supra* note 4.

⁷ Section 560.104, F.S.

⁸ See Florida House, *HB 1351 (2021) Bill Analysis*,

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h1351.IBS.DOCX&DocumentType=Analysis&BillNumber=1351&Session=2021> (last visited January 10, 2021), and Florida House, *Meeting of the Subcommittee on Insurance and Banking* (February 3, 2021)(statement of Russell Weigel, Commissioner, Florida Office of Financial Regulation). Declaratory statements can be found by accessing Florida Division of Administrative Hearings at <https://www.doah.state.fl.us/FLAIO/>.

⁹ Sections. 560.141 and 560.143, F.S.

¹⁰ *Id.*; s. 560.142, F.S.

¹¹ *Id.*; ss. 560.203, 560.205, and 560.208, F.S.

¹² The term “check casher” means a person who sells currency in exchange for payment instruments received, except travelers checks. Section 560.103(6), F.S.

¹³ The term “foreign currency exchanger” means a person who exchanges, for compensation, currency of the United States or a foreign government to currency of another government. Section 560.103(17), F.S.

¹⁴ Section 560.204(2), F.S.

¹⁵ Section 560.209, F.S.

- Have a corporate surety bond in an amount between \$50,000 and \$2 million depending on the financial condition, number of locations, and anticipated volume of the licensee.¹⁶ In lieu of a corporate surety bond, the licensee may deposit collateral such as cash or interest-bearing stocks and bonds with a federally insured financial institution.¹⁷
- Possess permissible investments, such as cash and certificates of deposit, with an aggregate market value of at least the aggregate face amount of all outstanding money transmissions and payment instruments issued or sold by the licensee or an authorized vendor in the United States.¹⁸ OFR may waive the permissible investments requirement if the dollar value of a licensee's outstanding payment instruments and money transmitted do not exceed the bond or collateral deposit.¹⁹

While MSBs are generally subject to federal anti-money laundering laws,²⁰ Florida law contains many of the same anti-money laundering reporting requirements and recordkeeping requirements with the added benefit of state enforcement. An MSB applicant must have an anti-money laundering program that meets the requirements of federal law.²¹

Pursuant to the Florida Control of Money Laundering in Money Services Business Act, an MSB must maintain certain records of each transaction involving currency or payment instruments in order to deter the use of a money services business to conceal proceeds from criminal activity and to ensure the availability of such records for criminal, tax, or regulatory investigations or proceedings.²² An MSB must keep records of each transaction occurring in this state that it knows to involve currency or other payment instruments having a greater value than \$10,000; to involve the proceeds of specified unlawful activity; or to be designed to evade the reporting requirements of ch. 896, F.S., or the Florida Control of Money Laundering in Money Services Business Act.²³ OFR may take administrative action against an MSB for failure to maintain or produce documents required by ch. 560, F.S., or federal anti-money laundering laws.²⁴ OFR may also take administrative action against an MSB for other violations of federal anti-money laundering laws such as failure to file suspicious activity reports.²⁵

A money transmitter or payment instrument seller must maintain specified records for at least 5 years, including the following:²⁶

- A daily record of payment instruments sold and money transmitted.
- A general ledger containing all asset, liability, capital, income, and expense accounts, which must be posted at least monthly.
- Daily settlement records received from authorized vendors.
- Monthly financial institution statements and reconciliation records.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 560.210, F.S.

¹⁹ *Id.*

²⁰ 31 C.F.R. pt. 1022.

²¹ Section 560.1401, F.S.

²² Section 560.123, F.S.

²³ *Id.*

²⁴ Section 560.114, F.S.

²⁵ *Id.*

²⁶ Sections 560.1105 and 560.211, F.S.

- Records of outstanding payment instruments and money transmitted.
- Records of each payment instrument paid and money transmission delivered.
- A list of the names and addresses of the licensee's authorized vendors.
- Records that document the establishment, monitoring, and termination of relationships with authorized vendors and foreign affiliates.
- Any additional records, as prescribed by rule, designed to detect and prevent money laundering.

Recent Case Law: State v. Espinoza

Through an online directory of buyers and sellers of bitcoin, a detective with the Miami Beach Police Department arranged to meet a person with the username Michelhack, which turned out to be the defendant Michell Espinoza, in order to purchase bitcoin.²⁷ The detective arranged multiple transactions with the defendant as follows:

- During the course of the first transaction, the detective made clear his desire to remain anonymous and implied that he was involved in illicit activity.²⁸ The detective paid Mr. Espinoza \$500 in cash and received a portion of a bitcoin valued at \$416.12, thus earning Mr. Espinoza a profit of \$83.67.²⁹
- The detective arranged a second transaction with Mr. Espinoza during which he told Mr. Espinoza that he needed the bitcoins to pay for stolen credit card numbers, since he was in the business of buying and selling stolen credit card numbers from Russian sellers.³⁰ The detective paid Mr. Espinoza \$1,000 in cash and received one bitcoin, thus earning Mr. Espinoza a profit of approximately \$167.56.³¹
- The detective then arranged a third transaction with Mr. Espinoza.³² The detective inquired how fast the transaction could be completed because his "Russian buddies" would not send him his "[stuff] until they get the coin."³³ The detective deposited \$500 into Mr. Espinoza's bank account, and Mr. Espinoza transferred 0.54347826 bitcoins to the detective.³⁴
- In the fourth and final transaction, the detective negotiated the transfer of bitcoins worth \$30,000 and represented to Mr. Espinoza that it was to pay for a new batch of stolen credit card numbers acquired from a recent data breach.³⁵ Although Mr. Espinoza questioned the authenticity of the \$30,000 roll of money that the detective gave him, he otherwise remained ready and willing to consummate the entire transaction.³⁶ Mr. Espinoza was then taken into custody.³⁷

Mr. Espinoza was charged with: (1) one count of unlawfully engaging in the business of a money transmitter and acting as a payment instrument seller as a result of not being licensed to conduct

²⁷ *State v. Espinoza*, 264 So. 3d 1055, 1059-60 (Fla. 3d DCA 2019).

²⁸ *Id.* at 1060.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 1060-61.

³⁶ *Id.* at 1061.

³⁷ *Id.*

such activity (Count one); and (2) two counts of money laundering (Counts two and three).³⁸ Mr. Espinoza filed a motion to dismiss as to all counts, which the trial court granted for the following reasons:

- As to Count one, the trial court found that neither bitcoin nor Mr. Espinoza's conduct fell within the ambit of ch. 560, F.S., requiring registration as a money services business.³⁹ Regarding Mr. Espinoza's conduct, the trial court reasoned that a "money transmitter" would necessarily operate like a middleman in a financial transaction, much like how Western Union accepts money from person A, and at the direction of person A, transmits it to person or entity B.⁴⁰ Mr. Espinoza was not acting as a middleman; rather the transactions with the detective were two-party transactions in which Mr. Espinoza sold his own bitcoin to the detective and received U.S. Dollars in return.
- As to Counts two and three, the trial court found that the conduct at issue qualifies as a "financial transaction" under the money laundering statutes but that Mr. Espinoza lacked the requisite intent to be guilty of money laundering.⁴¹

The state then appealed the trial court's dismissal of the information.⁴² On appeal, the Third District Court of Appeal (court) held that:

- The trial court erred in dismissing Count one because Mr. Espinoza acted as both a money transmitter and a payment instrument seller and, as such, was required to be licensed as a money services business.⁴³
- The trial court erred in dismissing Counts two and three on the basis that Espinoza lacked the requisite intent to be guilty of money laundering.⁴⁴

In the reasoning as to Count one, the court determined that bitcoin is both "monetary value" and a "payment instrument" under ch. 560, F.S.⁴⁵ This interpretation illustrates the need to expressly provide whether and how virtual currency falls within ch. 560, F.S. The court's interpretation also illustrates the need to clarify the definition of "payment instrument." "Monetary value" is akin to "currency" within ch. 560, F.S. Conceptually, a payment instrument is an instrument *denominated in* currency (or monetary value), but currency and monetary value should not in and of themselves be a payment instrument.

Another important aspect of the Espinoza case is that in determining that Mr. Espinoza acted as a money transmitter, the court addressed whether the definition of "money transmitter" covers only third-party intermediaries, in which case Mr. Espinoza selling his own bitcoins to the detective would not have run afoul of the prohibition on unlicensed money transmission.⁴⁶ On this point, the court held that "[t]he statute's plain language clearly contains no third party transmission requirement in order for an individual's conduct to fall under the 'money transmitter' definition. As such, we decline to add any third party or 'middleman' requirement to

³⁸ *Id.* at 1057 and 1061.

³⁹ *Id.* at 1057 and 1061.

⁴⁰ *Id.* at 1065.

⁴¹ *Id.* at 1057 and 1061.

⁴² *Id.* at 1061.

⁴³ *Id.* at 1057 and 1061-62.

⁴⁴ *Id.*

⁴⁵ *Id.* at 1064.

⁴⁶ *Id.* at 1065.

the money transmitter definition found in section 560.103(23).”⁴⁷ The court’s holding illustrates the need to clarify the definition of “money transmitter” such that a money transmitter license is only required for a person acting an intermediary between two parties, but neither person in a two-party transaction is required to be licensed.⁴⁸

Virtual Currency

Virtual currency is a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value.⁴⁹ In some environments, it operates like “real” currency⁵⁰ (i.e., the coin and paper money of the United States or of any other country that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance), but it does not have legal tender status in any jurisdiction.⁵¹ Virtual currency that has an equivalent value in real currency, or that acts as a substitute for real currency, is referred to as “convertible” virtual currency.⁵² Bitcoin is one example of a convertible virtual currency, as it can be digitally traded between users and can be purchased for, or exchanged into, U.S. dollars, Euros, and other real or virtual currencies.⁵³

Virtual currencies generally consist of computers operating the network software (nodes) that enable, validate, and store transaction records on a distributed digital ledger (a blockchain).⁵⁴ To transfer an asset on a blockchain, a person enters an alphanumeric code known only to the transferor (a private key) into a cryptographic hash function enabled by the network software, which allows the transferor to request that the network software validate a new entry on the ledger showing that control of an asset has been assigned to the recipient.⁵⁵ Once the network software has validated this transfer, the ledger is altered and the recipient may transfer the asset to another recipient using their own private key.⁵⁶ Ledger entries are cryptographically secured, and accounts are identified on a blockchain by alphanumeric “public keys”—not by the owner’s name.⁵⁷

Some persons use the services of a third-party to acquire or transact in virtual currency.⁵⁸ For example, certain third-parties provide custody services for their customers’ virtual currency in so called “hosted wallets.”⁵⁹ In such arrangements, the third-party wallet host may execute

⁴⁷ *Id.* (citations omitted).

⁴⁸ This is consistent with the historical interpretation of the money transmitter definition by OFR and industry, and it avoids the untenable result of requiring persons in a two-party transaction to be licensed. Additionally, this is consistent with the substance of the money transmitter regulations.

⁴⁹ IRS, *Virtual Currencies: What is virtual currency?*, <https://www.irs.gov/businesses/small-businesses-self-employed/virtual-currencies> (last visited December 29, 2021).

⁵⁰ Also often referred to as “fiat” currency.

⁵¹ IRS, *supra* note 48.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ FinCEN, *Notice of Proposed Rulemaking: Requirements for Certain Transactions Involving Convertible Virtual Currency or Digital Assets*, <https://www.govinfo.gov/content/pkg/FR-2020-12-23/pdf/2020-28437.pdf> (last visited December 29, 2021).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

transactions on a blockchain on behalf of a customer using a private key controlled by the third-party wallet host.⁶⁰ Other persons do not use the services of such a third-party, in which case they use the private key controlling their virtual currency to transact directly on a blockchain.⁶¹ Such persons may store the private key in a software program or written record, often referred to as an “unhosted wallet.”⁶²

Virtual currency networks present opportunities as well as risks.⁶³ The G7 Finance Ministers and Central Bank Governors recently noted that “[t]he widespread adoption of digital payments . . . has the potential to address frictions in existing payment systems by improving access to financial services, reducing inefficiencies, and lowering costs.”⁶⁴ At the same time, however, virtual currencies are used in illicit financial activity that presents substantial national security concerns.⁶⁵

Determining the true amount of illicit activity that is conducted in virtual currency is challenging.⁶⁶ One industry estimate is that approximately 1 percent of overall market transaction volume, or \$10 billion, in virtual currency activity conducted globally in 2019 was illicit.⁶⁷ This figure, however, may underestimate such illicit activity.⁶⁸ Despite significant underreporting due to compliance challenges in parts of the virtual currency sector, in 2019, FinCEN received approximately \$119 billion in suspicious activity reporting associated with virtual currency activity taking place wholly or in substantial part in the United States.⁶⁹ By industry measures, this would equate to approximately 11.9 percent of total virtual currency market activity being relevant to a possible violation of law or regulation.⁷⁰

Virtual Currency in Florida Statutes

Currently, Florida law includes virtual currency as a type of monetary instrument under the Florida Money Laundering Act.⁷¹ Thus, Florida law criminalizes the use of virtual currency for illicit purposes in the same manner that the law criminalizes use of fiat currency for illicit purposes. Under that act, “‘virtual currency’ means a medium of exchange in electronic or digital format that is not a coin or currency of the United States or any other country.”⁷² This definition was added in 2017⁷³ and is the only instance of “virtual currency” in Florida Statutes.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* (citing the G7 Finance Ministers and Central Bank Governors’ Statement on Digital Payments on Oct. 13, 2020).

⁶⁵ FinCEN Notice of Proposed Rulemaking, *supra* note 53.

⁶⁶ *Id.*

⁶⁷ *Id.* (citing Chainalysis, *2020 Crypto Crime Report* (Jan. 2020), <https://go.chainalysis.com/2020-CryptoCrime-Report.html>).

⁶⁸ FinCEN Notice of Proposed Rulemaking, *supra* note 53.

⁶⁹ *Id.* FinCEN notes that a significant majority of this \$119 billion related to suspicious activity that took place before 2019 based on subsequent lookbacks. *Id.* FinCEN anticipates that in the future it will receive additional suspicious activity reporting for activity that took place in 2019 but that has not yet been recognized as suspicious.

⁷⁰ *Id.* Suspicious activity is not a clear indication of a crime but is activity that is potentially illicit.

⁷¹ Section 896.101, F.S.

⁷² *Id.*

⁷³ Chapter 2017-155, L.O.F.

Federal Regulation of MSBs

The Financial Crimes Enforcement Network of the United States Department of Treasury (FinCEN) serves as the nation's financial intelligence unit and is charged with safeguarding the United States financial system from the abuses of money laundering, terrorist financing, and other financial crimes.⁷⁴ The basic concept underlying FinCEN's core activities is “follow the money” because criminals leave financial trails as they try to launder the proceeds of crimes or attempt to spend their ill-gotten profits.⁷⁵ To that end, FinCEN administers the Bank Secrecy Act (BSA).⁷⁶ BSA regulations require banks and other financial institutions, including MSBs, to take a number of precautions against financial crime.⁷⁷ BSA regulations require financial institutions to establish an anti-money laundering program (such as verifying customer identity), maintain certain records (such as transaction related data), and file reports (such as suspicious activity reports and currency transaction reports) that have been determined to have a high degree of usefulness in criminal, tax, and regulatory investigations, as well as in certain intelligence and counter-terrorism matters.⁷⁸

Generally, an MSB is required to register with FinCEN, regardless of whether the MSB is licensed with the state, if it conducts more than \$1,000 in business with one person in one or more transactions on the same day, in one or more of the following services: money orders, traveler's checks, check cashing, currency dealing, or exchange.⁷⁹ However, an MSB must register with FinCEN if it provides money transfer services in any amount.⁸⁰

BSA regulations define “money transmission services” as “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.”⁸¹ Depending on the facts and circumstances surrounding a transaction, a person transmitting virtual currency may fall under FinCEN's BSA regulations.⁸²

Federal law criminalizes money transmission if the money transmitting business:⁸³

- Is operated without a license in a state where such unlicensed activity is subject to criminal sanctions;
- Fails to register with FinCEN; or
- Otherwise involves the transportation or transmission of funds that are known to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity.

⁷⁴ FinCEN, *What We Do*, <https://www.fincen.gov/what-we-do> (last visited December 29, 2021).

⁷⁵ *Id.*

⁷⁶ Many of the federal provisions of the BSA have been codified in ch. 560, F.S., which has provided OFR with additional compliance and enforcement tools.

⁷⁷ FinCEN, *supra* note 73.

⁷⁸ *Id.*

⁷⁹ 31 C.F.R. §§ 1010.100 and 1022.380.

⁸⁰ *Id.*

⁸¹ 31 C.F.R. § 1010.100 (emphasis added).

⁸² FinCEN Guidance, *Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies*, FIN-2019-G001 (May 9, 2019), <https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf> (last visited December 29, 2021); FinCEN Notice of Proposed Rulemaking, *supra* note 53.

⁸³ 31 U.S.C. § 1960.

Financial Technology Sandbox

In 2020, the Legislature created the Financial Technology Sandbox within the Office of Financial Regulation to allow financial technology innovators to test new products and services in a supervised, flexible, regulatory sandbox using exceptions to specified general law and waivers of the corresponding rule requirements under defined conditions.⁸⁴

Currently, Financial Technology Sandbox licensees are exempt from the licensing requirements for payment instrument sellers and money transmitters under s. 560.204(1), F.S., only to the extent that the requirements would prohibit a licensee from engaging in, or advertising that it engages in, the selling or issuing of payment instruments or in the activity of a money transmitter during the 24-month⁸⁵ sandbox period.⁸⁶

III. Effect of Proposed Changes:

Section 1 amends s. 559.952, F.S., related to licensing exceptions for payment instrument sellers under the Financial Technology Sandbox, to conform with changes made to the referenced licensing requirement statute in s. 560.204, F.S., (Section 5 of the bill).

Section 2 amends s. 560.103, F.S., to create a definition for “virtual currency” and amend multiple other definitions in the section. The definitions are revised in order to subject money transmitters to licensing requirements for transactions involving a virtual currency, and prohibit payment instrument sellers from selling, issuing, providing, or delivering virtual currency.

New subsection (36) defines “virtual currency” to mean a medium of exchange in electronic or digital format that is not currency as defined in subsection (11). “Currency” is the coin and paper money of the United States or of any other country which is designated as legal tender and which circulates and is customarily used and accepted as a medium of exchange in the country of issuance. The term “virtual currency” does not include a medium of exchange in electronic or digital format that is used:

- Solely within online gaming platforms with no market or application outside such gaming platforms; or
- 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 currency, monetary value, or virtual currency.

The bill amends s. 560.103(23), F.S., to revise the definition of “money transmitter” by inserting references to payment instrument, virtual currency, currency, monetary value, and payment instruments and inserting a third-party transmission requirement. The added reference to virtual currency, subjects a money transmitter to licensing requirements for transactions involving a virtual currency.

⁸⁴ See s. 559.952, F.S.

⁸⁵ Section 559.952(3)(k), F.S.

⁸⁶ Section 559.952(4)(11), F.S.

The bill amends s. 560.103(14), F.S., to revise the definition of “electronic instrument” by inserting a reference to currency and deleting a reference to “money,” which is not defined in the chapter.

The bill amends s. 560.103(21), F.S., to revise the definition of “monetary value” to mean a medium of exchange other than virtual currency. Accordingly, references to monetary value exclude virtual currency.

The bill amends s. 560.103(29), F.S., to revise the definition of “payment instrument” by inserting references to methods of transmission and exchange and inserting a reference to currency in addition to the existing reference to “monetary value.” This revision, paired with the other revisions to definitions in this section, has the effect of prohibiting payment instrument sellers from selling, issuing, providing, or delivering virtual currency.

The bill amends s. 560.103(35), F.S., to revise the definition of “stored value” by inserting references to currency.

Section 3 amends s. 560.123, F.S., related to Florida Control of Money Laundering in Money Services Business Act, to conform with changes made to definitions in Section 2, and to changes made to required recordkeeping in Section 9, of the bill. This has the effect of applying the statute to specified virtual currency transactions.

Section 4 amends s. 560.125, F.S., related to penalties for unlicensed activity, to conform with changes made to the referenced licensing requirement statute in s. 560.204, F.S., (Section 5 of the bill), thus applying the penalties to unlicensed activity involving virtual currency.

Section 5 amends s. 560.204, F.S., related to licensing requirements, to revise the definition of “compensation” by inserting references to monetary value and virtual currency. This has the effect of requiring licensure as a money transmitter to receive compensation related to the exchange of virtual currency.

Section 6 amends s. 560.208, F.S., to conform with changes made to the licensing requirement statute in s. 560.204, F.S., (Section 5 of the bill). With regard to the transmission of virtual currency, this requires that the transmitted virtual currency is available to the designated recipient within 10 business days after receipt, and that immediately upon the receipt of virtual currency, the customer must be provided a confirmation or sequence number.

Section 7 amends s. 560.2085, F.S., to conform with changes made to the referenced licensing requirement statute in s. 560.204, F.S., (Section 5 of the bill). This has the effect of applying to money transmitters of virtual currency the statute’s requirements related to the contracts between the licensee and authorized vendors.

Section 8 amends s. 560.210, F.S., related to permissible investments, to require a money transmitter to hold virtual currency in the same type and amount as owed or obligated to the other location of person. The held virtual currency may not be calculated as a permissible

investment for purposes of equaling the aggregate face amount of all outstanding money transmission issued by the licensee.

Section 9 amends s. 560.211, F.S., related to required recordkeeping, to add rulemaking authority of recordkeeping requirements related to payment instruments and virtual currency.

The bill also conforms with changes made to definitions in Section 2.

Section 10 amends s. 560.212, F.S., related to financial liability for licensees, to conform with changes made to definitions in Section 2 of the bill.

Section 11 provides an effective date of January 1, 2023.

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:

Section 560.143, F.S., requires the following fees for money services businesses, which will now be applied to money transmitters of virtual currency:

- For initial licensure:
 - Application fee of \$375.
 - Fingerprinting fees, to authorized live scan vendors, that average \$65 per individual with a controlling interest.

- Fingerprint retention fees as required by rule - \$6 per individual with a controlling interest.
- Bi-annual renewal fees:
 - \$750 renewal fee
 - Fingerprint retention fees as required by rule - \$6 per individual with a controlling interest.

Additionally, licensees are required to reimburse the OFR for examination expenses. The average examination fee imposed by the office for fiscal year 2019-20 (pre-COVID) was \$3,800.⁸⁷ This fee would be imposed on average once every five years.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 559.952, 560.103, 560.123, 560.125, 560.204, 560.208, 560.2085, 560.210, 560.211, and 560.212.

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.

⁸⁷ Office of Financial Regulation, *Bill Analysis of SB 1758* (March 5, 2021)(On file with the Senate Committee on Banking and Insurance.

By Senator Brodeur

9-00015A-22

2022486__

1 A bill to be entitled
 2 An act relating to money services businesses; amending
 3 s. 559.952, F.S.; revising exceptions to general laws
 4 and rules for licensees during the Financial
 5 Technology Sandbox period; amending s. 560.103, F.S.;
 6 revising definitions; defining the term "virtual
 7 currency"; amending s. 560.123, F.S.; revising the
 8 purpose of the Florida Control of Money Laundering in
 9 Money Services Business Act; revising the duties of
 10 money services businesses; revising civil and criminal
 11 penalties; amending s. 560.125, F.S.; revising
 12 criminal and civil penalties for certain violations
 13 relating to unlicensed activity involving money
 14 services businesses and deferred presentment
 15 providers; amending s. 560.204, F.S.; revising
 16 provisions related to certain prohibited activities
 17 without a license or an exemption; revising the
 18 definition of the term "compensation"; amending s.
 19 560.208, F.S.; revising requirements for a money
 20 transmitter or payment instrument seller to conduct
 21 business; amending s. 560.2085, F.S.; revising
 22 requirements for written contracts between money
 23 transmitters or payment instrument sellers and
 24 authorized vendors; amending s. 560.210, F.S.;
 25 requiring money transmitters that receive virtual
 26 currency for specified purposes to hold a certain type
 27 and amount of virtual currency until the transmission
 28 obligation is completed; excluding such virtual
 29 currency in the calculation of permissible

Page 1 of 13

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

9-00015A-22

2022486__

30 investments; amending s. 560.211, F.S.; revising
 31 recordkeeping requirements for money transmitters or
 32 payment instrument sellers; amending s. 560.212, F.S.;
 33 revising financial liability requirements for money
 34 transmitters or payment instrument sellers; providing
 35 an effective date.
 36

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

38
 39 Section 1. Paragraph (a) of subsection (4) of section
 40 559.952, Florida Statutes, is amended to read:

41 559.952 Financial Technology Sandbox.—

42 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
 43 REQUIREMENTS.—

44 (a) Notwithstanding any other law, upon approval of a
 45 Financial Technology Sandbox application, the following
 46 provisions and corresponding rule requirements are not
 47 applicable to the licensee during the sandbox period:

48 1. Section 516.03(1), except for the application fee, the
 49 investigation fee, the requirement to provide the social
 50 security numbers of control persons, evidence of liquid assets
 51 of at least \$25,000, and the office's authority to investigate
 52 the applicant's background. The office may prorate the license
 53 renewal fee for an extension granted under subsection (7).

54 2. Section 516.05(1) and (2), except that the office shall
 55 investigate the applicant's background.

56 3. Section 560.109, only to the extent that the section
 57 requires the office to examine a licensee at least once every 5
 58 years.

Page 2 of 13

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

9-00015A-22

2022486__

4. Section 560.118(2).

5. Section 560.125(1), only to the extent that the subsection would prohibit a licensee from engaging in the business of a money transmitter or payment instrument seller during the sandbox period.

6. Section 560.125(2), only to the extent that the subsection would prohibit a licensee from appointing an authorized vendor during the sandbox period. Any authorized vendor of such a licensee during the sandbox period remains liable to the holder or remitter.

7. Section 560.128.

8. Section 560.141, except for s. 560.141(1)(a)1., 3., 7.-10. and (b), (c), and (d).

9. Section 560.142(1) and (2), except that the office may prorate, but may not entirely eliminate, the license renewal fees in s. 560.143 for an extension granted under subsection (7).

10. Section 560.143(2), only to the extent necessary for proration of the renewal fee under subparagraph 9.

11. Section 560.204(1), only to the extent that the subsection would prohibit a licensee from engaging in, or advertising that it engages in, ~~the selling or issuing of payment instruments or in the activity of a payment instrument seller or~~ money transmitter during the sandbox period.

12. Section 560.205(2).

13. Section 560.208(2).

14. Section 560.209, only to the extent that the office may modify, but may not entirely eliminate, the net worth, corporate surety bond, and collateral deposit amounts required under that

9-00015A-22

2022486__

section. The modified amounts must be in such lower amounts that the office determines to be commensurate with the factors under paragraph (5)(c) and the maximum number of consumers authorized to receive the financial product or service under this section.

Section 2. Subsections (14), (21), (23), (29), and (35) of section 560.103, Florida Statutes, are amended, and subsection (36) is added to that section, to read:

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

(14) "Electronic instrument" means a card, tangible object, or other form of electronic payment used for the transmission, ~~or payment, of money or the exchange of currency or~~ monetary value, including a stored value card or device that contains a microprocessor chip, magnetic stripe, or other means for storing information; that is prefunded; and for which the value is decremented upon each use.

(21) "Monetary value" means a medium of exchange, other than virtual currency, regardless of whether it is ~~or not~~ redeemable in currency.

(23) "Money transmitter" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, ~~a or payment instrument, or virtual currency instruments~~ for the purpose of acting as an intermediary to transmit currency, monetary value, a payment instrument, or virtual currency from one person to another location or person transmitting the same by any 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

9-00015A-22

2022486

to or from this country. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction.

(29) "Payment instrument" means a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument used for the transmission, exchange, or payment of currency ~~money~~, or monetary value, regardless of whether it is ~~or not~~ negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.

(35) "Stored value" means currency ~~funds~~ or monetary value represented in digital electronic format, regardless of whether it is ~~or not~~ specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically.

(36) "Virtual currency" means a medium of exchange in electronic or digital format which is not currency. The term does not include a medium of exchange in electronic or digital format which is used:

(a) Solely within online gaming platforms, with no market or application outside those gaming platforms; or

(b) Exclusively as part of a consumer affinity or rewards program and which can be applied solely as payment for purchases with the issuer or other designated merchants, but which cannot be converted into or redeemed for currency, monetary value, or virtual currency.

Section 3. Subsections (2), (3), and (4) and paragraphs (b), (c), and (d) of subsection (8) of section 560.123, Florida Statutes, are amended to read:

Page 5 of 13

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

9-00015A-22

2022486

560.123 Florida Control of Money Laundering in Money Services Business Act.—

(2) The purpose of this section is to require the maintenance of certain records of transactions involving currency, monetary value, or ~~or~~ payment instruments, or virtual currency in order to deter the use of a money services business to conceal proceeds from criminal activity and to ensure the availability of such records for criminal, tax, or regulatory investigations or proceedings.

(3) A money services business shall keep a record, as prescribed by the commission, of each financial transaction occurring in this state which it knows to involve currency, monetary value, a or other payment instrument, or virtual currency ~~as prescribed by the commission,~~ having a value greater than \$10,000; to involve the proceeds of specified unlawful activity; or to be designed to evade the reporting requirements of this section or chapter 896. The money services business must maintain appropriate procedures to ensure compliance with this section and chapter 896.

(a) Multiple financial transactions shall be treated as a single transaction if the money services business has knowledge that they are made by or on behalf of any one person and result in value ~~each~~ in or value ~~each~~ out totaling a value of more than \$10,000 during any day.

(b) A money services business may keep a record of any financial transaction occurring in this state, regardless of the value, if it suspects that the transaction involves the proceeds of unlawful activity.

(c) The money services business must file a report with the

Page 6 of 13

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

9-00015A-22 2022486__

office of any records required by this subsection, at such time and containing such information as required by rule. The timely filing of the report required by 31 U.S.C. s. 5313 with the appropriate federal agency shall be deemed compliance with the reporting requirements of this subsection unless the reports are not regularly and comprehensively transmitted by the federal agency to the office.

(d) A money services business, or officer, employee, or agent thereof, that files a report in good faith pursuant to this section is not liable to any person for loss or damage caused in whole or in part by the making, filing, or governmental use of the report, or any information contained therein.

(4) A money services business must comply with the money laundering, enforcement, and reporting provisions of s. 655.50 relating to reports of transactions involving currency transactions and payment instruments, as applicable, and of chapter 896 concerning offenses relating to financial transactions.

(8)

(b) A person who willfully violates any provision of this section, if the violation involves:

1. Currency, monetary value, ~~or~~ payment instruments, or virtual currency of a value exceeding \$300 but less than \$20,000 in any 12-month period, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Currency, monetary value, ~~or~~ payment instruments, or virtual currency of a value totaling or exceeding \$20,000 but less than \$100,000 in any 12-month period, commits a felony of

9-00015A-22 2022486__

the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Currency, monetary value, ~~or~~ payment instruments, or virtual currency of a value totaling or exceeding \$100,000 in any 12-month period, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) In addition to the penalties authorized by s. 775.082, s. 775.083, or s. 775.084, a person who has been convicted of, or entered a plea of guilty or nolo contendere, regardless of adjudication, to having violated paragraph (b) may be sentenced to pay a fine of up to the greater of \$250,000 or twice the value of the currency, monetary value, ~~or~~ payment instruments, or virtual currency whichever is greater, except that on a second or subsequent conviction for or plea of guilty or nolo contendere, regardless of adjudication, to a violation of paragraph (b), the fine may be up to the greater of \$500,000 or quintuple the value of the currency, monetary value, ~~or~~ payment instruments, or virtual currency whichever is greater.

(d) A person who violates this section is also liable for a civil penalty of up to ~~not more than~~ the greater of the value of the currency, monetary value, ~~or~~ payment instruments, or virtual currency involved or \$25,000.

Section 4. Subsections (5), (6), and (7) of section 560.125, Florida Statutes, are amended to read:

560.125 Unlicensed activity; penalties.—

(5) A person who violates this section, if the violation involves:

(a) Currency, monetary value, ~~or~~ payment instruments, or virtual currency of a value exceeding \$300 but less than \$20,000

9-00015A-22

2022486

in any 12-month period, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Currency, monetary value, or payment instruments, or virtual currency of a value totaling or exceeding \$20,000 but less than \$100,000 in any 12-month period, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Currency, monetary value, or payment instruments, or virtual currency of a value totaling or exceeding \$100,000 in any 12-month period, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) In addition to the penalties authorized by s. 775.082, s. 775.083, or s. 775.084, a person who has been convicted of, or entered a plea of guilty or nolo contendere to, having violated this section may be sentenced to pay a fine of up to the greater of \$250,000 or twice the value of the currency, monetary value, or payment instruments, or virtual currency ~~whichever is greater~~, except that on a second or subsequent violation of this section, the fine may be up to the greater of \$500,000 or quintuple the value of the currency, monetary value, or payment instruments, or virtual currency ~~whichever is greater~~.

(7) A person who violates this section is also liable for a civil penalty of up to the greater of not more than the value of the currency, monetary value, or payment instruments, or virtual currency involved or \$25,000, ~~whichever is greater~~.

Section 5. Subsection (1) of section 560.204, Florida Statutes, is amended to read:

560.204 License required.—

Page 9 of 13

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

9-00015A-22

2022486

(1) Unless exempted, a person may not engage in, or in any manner advertise that they engage in, ~~the selling or issuing of payment instruments or in the activity of a payment instrument seller or~~ money transmitter, for compensation, without first obtaining a license under this part. For purposes of this ~~subsection~~ section, ~~the term~~ "compensation" includes profit or loss on the exchange of currency, monetary value, or virtual currency.

Section 6. Subsections (5) and (6) of section 560.208, Florida Statutes, are amended to read:

560.208 Conduct of business.—In addition to the requirements specified in s. 560.1401, a licensee under this part:

(5) Shall, in the normal course of business, ensure that currency, monetary value, payment instruments, or virtual currency ~~money~~ transmitted is available to the designated recipient within 10 business days after receipt.

(6) Shall, immediately upon receipt of currency, monetary value, a or payment instrument, or virtual currency, provide a confirmation or sequence number to the customer verbally, by paper, or electronically.

Section 7. Paragraph (b) of subsection (2) of section 560.2085, Florida Statutes, is amended to read:

560.2085 Authorized vendors.—A licensee under this part shall:

(2) Enter into a written contract, signed by the licensee and the authorized vendor, which:

(b) Includes contract provisions that require the authorized vendor to:

Page 10 of 13

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

9-00015A-22

2022486__

1. Report to the licensee, immediately upon discovery, the theft or loss of currency, monetary value, a payment instrument, or virtual currency received for a transmission or for a payment instrument sold;

2. Display a notice to the public, in such form as prescribed by rule, that the vendor is the authorized vendor of the licensee;

3. Remit all amounts owed to the licensee for all transmissions accepted and all payment instruments sold in accordance with the contract between the licensee and the authorized vendor;

4. Hold in trust all currency, monetary value, or payment instruments, or virtual currency received for transmissions or for the purchase of payment instruments from the time of receipt by the licensee or authorized vendor until the time the transmission obligation is completed;

5. Not commingle the currency, monetary value, payment instruments, or virtual currency ~~money~~ received for transmissions accepted or payment instruments sold on behalf of the licensee with the assets ~~money~~ or property of the authorized vendor, except for making change in the ordinary course of the vendor's business; ~~and~~

6. Ensure that the currency, monetary value, payment instruments, or virtual currency received for transmissions accepted or payment instruments sold ~~money~~ is accounted for at the end of the business day;

~~7.6-~~ Consent to examination or investigation by the office;

~~8.7-~~ Adhere to the applicable state and federal laws and rules pertaining to a money services business; and

9-00015A-22

2022486__

~~9.8-~~ Provide such other information or disclosure as may be required by rule.

Section 8. Present subsections (2) and (3) of section 560.210, Florida Statutes, are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

560.210 Permissible investments.—

(2) Each money transmitter that receives virtual currency, either directly or through an authorized vendor, for the purpose of transmitting the virtual currency from one person to another location or person must at all times, until the transmission obligation is completed, hold virtual currency of the same type and amount owed or obligated to the other location or person. Virtual currency received and held under this subsection is not included in the amount of outstanding money transmissions for purposes of calculating the permissible investments required by subsection (1).

Section 9. Paragraphs (a), (e), and (f) of subsection (1) of section 560.211, Florida Statutes, are amended, and paragraph (j) is added to that subsection, to read:

560.211 Required records.—

(1) In addition to the record retention requirements under s. 560.1105, each licensee under this part must make, keep, and preserve the following books, accounts, records, and documents for 5 years:

(a) A daily record of payment instruments sold and of currency, monetary value, payment instruments, or virtual currency ~~money~~ transmitted.

(e) Records of outstanding payment instruments and of

9-00015A-22

2022486__

349 currency, monetary value, payment instruments, or virtual
350 currency ~~money~~ transmitted.

351 (f) Records of each payment instrument paid and ~~of each~~
352 currency, monetary value, payment instruments, or virtual
353 currency ~~money~~ transmission delivered.

354 (j) Any additional records, as prescribed by rule, related
355 to virtual currency.

356 Section 10. Section 560.212, Florida Statutes, is amended
357 to read:

358 560.212 Financial liability.—A licensee under this part is
359 liable for the payment of all currency, monetary value, payment
360 instruments, or virtual currency ~~money~~ transmitted and payment
361 instruments that it sells, in whatever form and whether directly
362 or through an authorized vendor, as the maker, drawer, or
363 principal thereof, regardless of whether such item is negotiable
364 or nonnegotiable.

365 Section 11. This act shall take effect January 1, 2023.

1/12/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

DUPLICATE

Banking and Insurance

Committee

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

SB 486

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Commissioner Russ Weigel**

Phone

Address **101 E Gaines St**

Street

Email **Russell.Weigel@flofr.gov**

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:

Office of Financial Regulation

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/21

Meeting Date

B+I

Committee

486

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jason Holloway

Phone

727-417-0036

Address

1520 Flamingo Cir E

Email

jaseh41@gmail.com

Street

Clearwater

State

FL

Zip

33764

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

01/12/2022

Meeting Date

B + I

Committee

Name

Samuel Armes

Address

5095 Picella LN

Street

Sanford

City

FL

State

32771

Zip

The Florida Senate

APPEARANCE RECORD

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

0486 MTL

Bill Number or Topic

Amendment Barcode (if applicable)

Phone

863-944-8912

Email

Sam@fbbq.io

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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



SENATOR JASON BRODEUR
9th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environment and Natural Resources, *Chair*
Health Policy, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Community Affairs

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

JOINT COMMITTEE:

Joint Administrative Procedures Committee

November 2, 2021

Honorable Jim Boyd
312 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Boyd,

I am writing to request that **SB 486, Money Services Businesses**, be placed on the agenda to be heard in the Banking and Insurance Committee.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur". The signature is fluid and cursive, with the first name "Jason" being more prominent than the last name "Brodeur".

Jason Brodeur

Cc: James Knudson, Staff Director
Amaura Canty, Administrative Assistant

REPLY TO:

□ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 498

INTRODUCER: Banking and Insurance Committee, Senator Baxley and Senator Perry

SUBJECT: Insurance Coverage for Hearing Aids for Children

DATE: January 13, 2022

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 498 requires an individual health insurance policy or individual health maintenance organization contract that provides major medical coverage or similar coverage for a dependent child of an insured or subscriber, respectively, to provide hearing aid coverage for a covered child from birth through age 18 who has been diagnosed with hearing loss by a licensed physician or a licensed audiologist. The term, “hearing aid,” means any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing. The term does not include cochlear implants.

The bill requires the policies or contracts to provide a minimum coverage limit of \$3,500 per ear within a 24-month period. The insured or subscriber remains responsible for the cost of hearing aids and related services that exceed the coverage limit provided for in the policy or contract. If, however, a child experiences a significant and unexpected change in his or her hearing or experiences a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not, or cannot, meet the needs of the child, the bill requires that a new 24-month period must begin with full benefits and coverage.

The bill applies to individual health insurance policies or contracts that are issued on or after January 1, 2023. The provisions of the bill do not apply to the State Group Insurance program; therefore, there is no fiscal impact to the program.

II. Present Situation:

One in eight people in the United States (13 percent, or 30 million) age 12 years or older has hearing loss in both ears, based on standard hearing examinations.¹ Hearing loss is one of the most common birth defects² in the United States, with approximately two or three out of every 1,000 children in the United States are born with a detectable level of hearing loss in one or both ears.³

Many people who are deaf or hard-of-hearing have some hearing. In some instances, a hearing aid may help a child with hearing loss to make the most of their residual hearing.⁴ Hearing aids make sounds louder and can be worn by people of any age, including infants. Babies with hearing loss may understand sounds better using hearing aids. There are many styles of hearing aids. They can help many types of hearing loss. A young child is usually fitted with behind-the-ear style hearing aids because they are better suited to growing ears.⁵

Hearing loss may be in one ear (unilateral loss) or in both ears (bilateral loss). The degree of hearing loss can range from mild to profound, as described below:⁶

- Mild Hearing Loss (26-40 decibels). A person with a mild hearing loss may hear some speech sounds, but soft sounds are hard to hear.
- Moderate Hearing Loss (41-70 decibels). A person with a moderate hearing loss may hear almost no speech when another person is talking at a normal level.
- Severe Hearing Loss (71-90 decibels). A person with severe hearing loss will hear no speech when a person is talking at a normal level and only hear some loud sounds.
- Profound Hearing Loss (91 decibels or more). A person with a profound hearing loss will not hear any speech and will hear only very loud sounds.⁷

Hearing loss can affect a child's ability to develop communication, language, and social skills. Early detection of hearing loss can help infants and children with learning and reaching developmental milestones, according to recent research. In the United States, researchers have reported that children have more favorable language outcomes, such as greater vocabulary and reading abilities, when hearing loss is identified sooner and the child receives hearing aids and

¹ See National Institutes for Health, National Institute on Deafness and Other Communication Disorders *available at* <https://www.nidcd.nih.gov/health/statistics/quick-statistics-hearing> (last visited Dec. 28, 2021).

² Florida Newborn Screening, Early Hearing and Intervention Program *available at* <https://floridanewbornscreening.com/hearing/early-hearing-and-intervention-programs/> (last visited Dec. 28, 2021).

³ *Id.*

⁴ Centers for Disease Control and Prevention, National Center on Birth Defects and Developmental Disorders (Jun. 8, 2020) *available at* <https://www.cdc.gov/ncbddd/hearingloss/treatment.html> (last visited Dec. 18, 2021). The amount of hearing a deaf or hard-of-hearing person has is referred to as “residual hearing.”

⁵ *Id.* A plastic ear mold is connected to a behind-the-ear hearing aid and is fitted for the child's ear. It directs sound from the hearing aid into the ear canal. Each individual's ear is shaped differently, and a child's ear will change as he or she grows. An audiologist uses a soft material to make a copy of the child's outer ear canal. This is used to make an ear mold that will fit the child. As the child grows, new ear molds can be made and attached to the same hearing aid.

⁶ Florida Department of Health and Children's Medical Services, *A Florida Parent's Guide to Hearing* (Apr. 2020 Edition) *available at* <http://floridanewbornscreening.com/wp-content/uploads/Hearing-Guide-English-FINAL-1.pdf> (last visited Dec. 28, 2021).

⁷ See Centers for Disease Control and Prevention, National Center on Birth Defects and Developmental Disorders (Jun. 8, 2020), *available at* <https://www.cdc.gov/ncbddd/hearingloss/types.html> (last visited Dec. 28, 2021).

interventions at an earlier age.⁸ A second study similarly found that children who received hearing aids and cochlear implants earlier had better language outcomes, comparing language skills with the provision of a hearing aid at three months compared to 24 months.⁹ The authors' state:

The younger the child received intervention, the better the language outcome. In addition, more substantial benefits of earlier access to useful HAs (hearing aids) and CI (cochlear implants) were obtained by those with worse hearing. Earlier intervening, rather than access to UNHS (universal newborn hearing screening), improved outcomes.¹⁰

Florida Newborn Hearing Screening Program

Florida has a universal newborn hearing-screening program¹¹ that requires all Florida-licensed facilities that provide maternity and newborn care to screen, or refer for screening, all newborns prior to discharge for hearing loss, unless a parent objects to the screening.¹² All test results, including recommendations for any referrals or follow-up evaluations by a licensed audiologist, a physician licensed under chs. 458 or 459, F.S., or other newborn hearing screening providers in the hospital facility, must be placed in the newborn's medical records within 24 hours after the completion of the screening procedure.¹³ For babies born in a facility other than a hospital, the parents are to be instructed on the importance of having a screening conducted, information must be provided, and assistance must be given to make an appointment within three months.¹⁴

The initial newborn screening and any necessary follow-up and evaluation are covered benefits reimbursable by Medicaid, health insurers, and health maintenance organizations, with some limited exceptions.¹⁵ For those newborns and children found to have a permanent hearing loss, the law also provides for referral to the state's Part C program of the federal Individuals with Disabilities Education Act¹⁶ and Children's Medical Services' Early Intervention Program, Early Steps.¹⁷

⁸ Christine Yoshinaga-Itano, Ph.D., et al, *Early Hearing Detection and Vocabulary of Children with Hearing Loss*, PEDIATRICS, (Aug. 2017, Vol. 140, No. 2), available at <https://pediatrics.aappublications.org/content/140/2/e20162964> (last visited Dec. 28, 2021).

⁹ Teresa Y.C. Ching, Ph.D., *Age at Intervention for Permanent Hearing Loss and 5-Year Language Outcomes*, Pediatrics, (Sept. 2017, Vol. 140, Issue 3), available at <https://pediatrics.aappublications.org/content/140/3/e20164274> (last visited Dec. 28, 2021).

¹⁰ *Id.*

¹¹ Florida's Early Hearing Detection and Intervention Program (EHDI) is Florida's newborn hearing-screening program available at <https://floridanewbornscreening.com/hearing/early-hearing-and-intervention-programs/> (last visited Dec. 28, 2021).

¹² See s. 383.145, F.S.

¹³ Section 383.145(3)(e), F.S.

¹⁴ Section 383.145(3)(i), F.S.

¹⁵ Section 383.145(3)(j), F.S.

¹⁶ See Pub. L. No. 108-446. The Part C program provides benefits and services for infants and toddlers from birth to age 36 months. Children's Medical Services, within the Department of Health, administers Florida's Part C program, which is known as Early Steps.

¹⁷ The Early Steps program services children with disabilities, developmental delays, or children with a physical or mental condition known to create a risk of a developmental delay. See http://www.cms-kids.com/families/early_steps/early_steps.html (last visited Dec. 28, 2021).

Hearing Aid Coverage in Public Insurance Programs

Medicaid

Florida Medicaid provides hearing services for eligible recipients under the age of 21, if such services are medically necessary to correct or ameliorate a defect, a condition, or a physical or mental illness. This coverage includes diagnostic services, treatment, equipment, supplies, and other measures described in 42 U.S.C. 1396d(a).¹⁸ Medicaid recipients under the age of 21 have coverage for the following hearing related services:

- Recipients who have documented, profound, severe hearing loss in one or both ears have coverage for:
 - An implanted device for recipients age five years and older; or
 - A non-implanted (softband) device for recipients under age five.
- Cochlear implants for recipients age 12 months and older who have documented, profound to severe, bilateral sensorineural hearing loss.
- For recipients who have moderate hearing loss or greater, the coverage is:
 - One new, complete, (not refurbished) hearing aid device per ear, every three years, per recipient;
 - Up to three pairs of ear molds per year, per recipient; and
 - One fitting and dispensing service per ear, every three years, per recipient.
- A recipient under the age of 12 months may receive up to two newborn screenings. A second screening may be conducted only if the recipient did not pass the test in one or both ears.
- An eligible recipient may receive one hearing assessment every 3 years for the purposes of determining hearing aid candidacy and the most appropriate hearing aid.¹⁹

Medicaid also covers repairs and replacement of both Medicaid and non-Medicaid provided hearing aids, up to two hearing aid repairs every 366 days, after the one-year warranty period has expired.²⁰

State Children's Health Insurance Program²¹

The Children's Health Insurance Program (CHIP) was enacted as part of the Balanced Budget Act of 1997, and it created Title XXI of the federal Social Security Act as a joint state-federal funding partnership to provide health insurance to children in low to moderate income households.²² The Florida Healthy Kids Corporation²³ is one component of Florida's Title XXI program, known as Florida KidCare, and is the only program component utilizing a non-Medicaid benefit package.²⁴ The other program components, Medicaid for children, Medikids, and Children's Medical Services Network, follow the Medicaid benefit package.²⁵

¹⁸ See Fla. Admin. Code R. 54G-4.110 (2021). The hearing services coverage policy from the Agency for Health Care Administration available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-06744> (last visited Dec. 28, 2021).

¹⁹ See Agency for Health Care Administration, *Hearing Services Coverage Policy* (June 2016), available at http://ahca.myflorida.com/medicaid/review/specific_policy.shtml (last visited Dec. 28, 2021).

²⁰ *Id.*

²¹ 42 U.S.C. s. 1397aa-1397mm.

²² Pub. L. No. 105-33, 111 Stat. 251 (1997).

²³ See ss. 624.91-624.915, F.S.

²⁴ See ss. 409.810-409.821, F.S.

²⁵ See s. 409.815(2)(a), F.S., and s. 391.0315, F.S.

In order for health benefits coverage to qualify for premium assistance payments, KidCare enrollees must receive hearing screenings as a covered, preventative health service.²⁶ Additionally, s. 409.815(2)(h), F.S., provides that the benefits for durable medical equipment include within covered services equipment and devices that are medically indicated to assist in the treatment of a medical condition, and specifically prescribed as medically necessary. Hearing aids are covered only when medically indicated to assist in the treatment of a medical condition. There are no out of pocket costs for the well-child hearing screening for subsidized Title XXI eligible children.²⁷

Hearing Aid Coverage in the Private Health Insurance Market

The Office of Insurance Regulation (OIR) is responsible for the regulation of all activities of insurers and other risk-bearing entities that do business in Florida.²⁸ Florida law does not require health insurance policies or HMO contracts to provide coverage for hearing aids. According to OIR, some of the plans offered by UnitedHealthcare (All Savers, Neighborhood Health, etc.) cover hearing aids if recommended by a physician, and bone-anchored hearing aids are covered with some restrictions. Molina and Health First cover implant type hearing aids, if medically necessary.²⁹

Currently, 24 states appear to mandate health benefit plans to provide coverage for hearing aids for children.³⁰ Coverage requirements range from authorizing coverage of a hearing aid every 24 months to every five years. Many states include caps on the amount the insurer must pay. These caps range from \$1,000 to \$4,000.³¹

State Mandated Health Insurance Coverage

Prior to 2012, OIR identified 18 state mandated benefits.³² Subsequently, Florida has not enacted any mandated benefits. Examples of benefits mandated under Florida law include:

- Treatment for temporomandibular joint disorders;
- Coverage for bone marrow transplants;
- Coverage for certain cancer drugs;
- Diabetes treatment services;
- Osteoporosis;
- Certain coverage for newborn children;
- Child health supervision services; and

²⁶ Section 409.815(2)(a), F.S.

²⁷ Florida Healthy Kids Corporation, *Medical Benefits* available at <https://www.healthykids.org/benefits/medical/> (last visited Dec. 28, 2021).

²⁸ The OIR is under the Financial Services Commission, which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, which serves as the agency head of the commission. Section 20.121(3), F.S.

²⁹ Office of Insurance Regulation correspondence (Dec. 8, 2020) (on file with Senate Committee on Banking and Insurance).

³⁰ See information gathered by the American Speech-Language-Hearing Association *available at* https://www.asha.org/advocacy/state/issues/ha_reimbursement/ (last visited Dec. 28, 2021).

³¹ *Id.*

³² Centers for Medicare & Medicaid Services, *Florida – State Required Benefits*, *available at* https://downloads.cms.gov/ccio/State%20Required%20Benefits_FL.pdf (last visited Dec. 28, 2021).

- Treatment of cleft lip and cleft palate in children.³³

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal, which would mandate a health coverage or the offering of a health coverage by an insurer, to submit to the Agency for Health Care Administration and the legislative committees having jurisdiction, a report that assesses the social and financial impacts of the proposed coverage. Proponents submitted a report to Senate Banking and Insurance Committee staff in 2021 that indicates there are less than 7,200 children under the age of 18 in Florida are deaf.³⁴ Hearing aids and the services necessary to prescribe, evaluate, fit, and manage children with hearing loss generally cost an average of \$3,500 per ear depending on the technology and enhancements selected by the audiologist based on the individual needs of the child.³⁵ (See Section V, Fiscal Impact Statement, Private Sector Impact of the Bill Analysis.)

Advocates of the bill note that untreated hearing loss may lead to tremendous expense for the taxpayer, as described below:

- Untreated pediatric hearing loss costs \$420,000 in special education costs per child and \$1 million over the lifetime of the individual.
- Longitudinal, peer-reviewed studies have shown that healthcare costs are significantly higher for individuals with untreated vs treated hearing loss.
- Increased costs are not confined to the medical bills in the studies. Medical providers must absorb (and pass on via increased overall costs) costs incurred from longer visit times due to communication difficulties, increased risk of malpractice lawsuits from communication difficulties, and necessary accommodations like interpreter services.
- Communication difficulties in deaf and hard of hearing patients, which would be mitigated by appropriate access to sound, result in more physician visits and overuse of emergency rooms and urgent care centers.
- Patients with untreated hearing loss are more likely to be misdiagnosed when visiting providers for unrelated health issues and are more difficult to treat due to communication difficulties.³⁶

Federal Patient Protection and Affordable Care Act

The Patient Protection and Affordable Care Act (PPACA)³⁷ does not require health insurance policies to cover hearing aids for adults or for children. Under PPACA, individuals and small businesses can obtain health insurance coverage on or off the federal marketplace exchanges.³⁸

³³ *Id.*

³⁴ Florida Coalition for Spoken Language Options, *2021 Florida Legislature, SB 1268 Mandate Report* (on file with Senate Committee on Banking and Insurance).

³⁵ *Id.*

³⁶ *Id.*

³⁷ The PPACA (Pub. Law No. 111-148) was enacted on March 23, 2010. On March 30, 2010, PPACA was amended by Pub. Law No. 111-152, the Health Care and Education Reconciliation Act of 2010. The two laws are collectively referred to as the “Patient Protection and Affordable Care Act” or “PPACA.”

³⁸ Exchanges are entities established under PPACA through which qualified individuals and qualified employers can purchase health insurance coverage in qualified health plans (QHPs). Many individuals who enroll in QHPs through individual market exchanges are eligible to receive a premium tax credit (PTC) to reduce their costs for health insurance premiums and to receive reductions in required cost-sharing payments to reduce out-of-pocket expenses for health care services. 42 U.S.C. s. 18031.

All non-grandfathered health plans³⁹ must offer qualified health plans meeting certain federal mandates, including the provisions of the following 10 essential health benefits (EHB):

- Ambulatory services (outpatient care);
- Emergency services;
- Hospitalization (inpatient care);
- Maternity and newborn care;
- Mental health and substance abuse disorder services;
- Prescription drugs;
- Rehabilitative services and rehabilitative services and devices;
- Laboratory services;
- Preventive care and chronic disease management; and
- Pediatric services, including oral and vision care.⁴⁰

States may modify the EHB offered in their states by mandating additional coverage. However, states must defray the associated costs such benefits imposed on qualified health plans coverage, and those costs should not be included in the percentage of premium attributable to the coverage of EHB for calculating the premium tax credit for eligible enrollees⁴¹ on the exchange.⁴² The State of Florida may be required to defray the costs of any additional benefits beyond the required EHB put in place after 2011.⁴³

Reporting of Additional State-Required Benefits and Cost Analysis

For plan years beginning on or after January 1, 2020, each state must identify and report to the federal Department of Health and Human Services (HHS) benefits mandated by state law and identify which of those benefits are in addition to EHB. The first annual submission deadline for states to notify the HHS of their state-mandated benefits was July 1, 2021.⁴⁴ Each QHP issuer in the state must quantify cost attributable to each additional required benefit and then report this to the state.⁴⁵ In May 2020, HHS clarified existing rules to provide that it would also be permissible for issuers to choose to rely on another entity, such as the state, to produce the cost analysis, provided the issuer remains responsible for ensuring that the quantification complies with

³⁹ A “grandfathered health plan” is a plan that maintains coverage that was in place prior to the passage of the PPACA or in which the enrollee was enrolled on March 23, 2010 while complying with the consumer protection components of the PPACA. If a group health plan enters a new policy, certificate, or contract of insurance, the group must provide the new issuer the documentation from the prior plan so it can be determined whether there has been a change sufficient to lose grandfather status. See s. 627.402, F.S.

⁴⁰ 42 U.S.C. s. 18022(b)(1)(A)-(J).

⁴¹ In Florida, 1,705,902 or 95 percent of the total marketplace exchange enrollees receive premium tax credits. KFF, Marketplace Effectuated Enrollment and Financial Assistance (2020) available at <https://www.kff.org/other/state-indicator/effectuated-marketplace-enrollment-and-financial-assistance/?currentTimeframe=0&selectedRows=%7B%22wrapups%22:%7B%22united-states%22:%7B%7D%7D,%22states%22:%7B%22florida%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last visited Dec. 28, 2021).

⁴² HealthCare.gov, Subsidized Coverage, available at <https://www.healthcare.gov/glossary/subsidized-coverage/> (last visited Dec. 28, 2021). Household income must be between 100 percent and 400 percent of the federal poverty level to qualify for a premium tax credit.

⁴³ See 42 U.S.C. s. 18031(d)(3)(B)(ii).

⁴⁴ CFR 156.111.

⁴⁵ CFR 155.170(c).

existing rules.⁴⁶ Further, the HHS noted that this calculation should be done prospectively to allow for the offset of an enrollee's share of premium and for purposes of calculating the PTC and reduced cost sharing.⁴⁷

III. Effect of Proposed Changes:

Sections 1 and 2 create ss. 627.6413 and 641.31(48), F.S., respectively, to require an individual health insurance policy or individual HMO contract that provides major medical or similar coverage for a dependent child, age 18 or younger, of the insured or subscriber to provide coverage for a hearing aid prescribed, fitted, and dispensed by a physician licensed under ch. 458 or 458, F.S., or an audiologist licensed under part I of ch. 468, F.S. Such policies are required to provide a minimum coverage of \$3,500 per ear within a 24-month period.

The term, "hearing aid," is defined as "any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for, impaired hearing." The term does not include cochlear implants.

The bill provides that the insured or subscriber remains responsible for the cost of hearing aids and related services that exceed the coverage limit provided for in the policy or contract. However, if a child experiences a significant and unexpected change in his or her hearing or experiences a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not or cannot meet the needs of the child, the bill requires that a new 24-month period must begin with full benefits and coverage.

The bill applies to policies or contracts that are issued or renewed on or after January 1, 2023.

Section 3. The bill takes effect January 1, 2023.

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.

⁴⁶ 85 Fed. Reg. 29218 (May 14, 2020).

⁴⁷ *Id.*

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

In 2021, advocates of the Florida Coalition for Spoken Language Options provided the following analysis of the fiscal impact of SB 1268 on individual policies or contracts.⁴⁸ Like SB 1268, CS/SB 498 provides coverage up to age 18. According to the Florida Coalition for Spoken Language Options, approximately 461 children will benefit from the mandated coverage, and the resulting increases in costs are estimated to be \$0.74 annually or .06 monthly per covered life, as described below:

Florida Population/Demographics	21,477,737
Florida Population Under 0-18 (19.7%)	4,231,114
All Floridians with individual major medical plans⁴⁹	1,765,807
19.7% of all covered lives on individual major medical plans are under 18	347,864
0.17% of children have hearing loss	7,193
0.17% of the children who have individual major medical plans	591
2% of .17% slight loss/no hearing aid needed	-12
30% of .17% severe to profound sensorineural or mixed loss/ cochlear implant candidate	-177
.17% of 16,170 Children Receiving Early Steps	-11
Impacted Hearing Aid Candidates	461
39% unilateral	180
61% bilateral	281
Total Cost per Unilateral (\$3500 per ear over 24 months)	\$630,000
Total Cost Per Bilateral (\$3500 per ear over 24 months)	\$1,967,000

⁴⁸ Florida Coalition for Spoken Language Options, *SB 1268 Mandate Report* (on file with Senate Committee on Banking and Insurance).

⁴⁹ Office of Insurance Regulation correspondence (Dec. 8, 2020) (on file with Senate Committee on Banking and Insurance).

Total Cost Over 24 Months	\$2,597,000
<i>Cost per Year</i>	<i>\$1,298,500</i>
Annual Cost per Plan (\$1,298,500 spread over 1,765,807 covered lives)	\$0.74
Cost Per Month Per Covered Life	\$0.06

C. **Government Sector Impact:**

None. The bill's requirements do not apply to the State Group Insurance Program since the bill does not mandate that group or employer coverage provide the benefits.

VI. Technical Deficiencies:

The bill does not define “significant and unexpected change” in hearing requiring an unexpected change in the prescription or what criteria will be used to make that determination. Defining this term in the bill or through rulemaking should reduce disputes over whether a change in hearing is “significant and unexpected.”⁵⁰

VII. Related Issues:

Generally, insurance policies and HMO contracts are issued with a one-year duration. It may be difficult to implement a coverage requirement that lasts for 24 months, as proposed in the bill.⁵¹

VIII. Statutes Affected:

This bill substantially amends section 641.31 of the Florida Statutes.
This bill creates section 627.6413 of the Florida Statutes.

IX. Additional Information:

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

CS by Banking and Insurance on January 12, 2022:

The committee substitute:

- Requires individual market health insurance policies and HMO contracts providing major medical or similar comprehensive coverage to provide coverage for hearing aids for children through age 18 rather than age 21.
- Revises the definition of hearing aid to exclude cochlear implants.
- Clarifies that a physician licensed under ch. 458 or 459, F.S., or an audiologist licensed under ch. 468, F.S., must make the diagnosis of a hearing loss.

⁵⁰ Office of Insurance Regulation, *2021 Legislative Session, Senate Bill 1268 Fiscal Analysis* (Feb. 18, 2021) (on file with Senate Committee on Banking and Insurance).

⁵¹ *Id.*

B. Amendments:

None.

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



737986

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/13/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.6413, Florida Statutes, is created
to read:

627.6413 Coverage for hearing aids for children.—

(1) As used in this section, the term "hearing aid" means
any wearable instrument or device designed for, offered for the
purpose of, or represented as aiding persons with or



737986

11 compensating for impaired hearing, and includes ear molds. The
12 term does not include a cochlear implant.

13 (2) A health insurer issuing an individual policy that
14 provides major medical or similar comprehensive coverage for a
15 dependent child of the insured must provide coverage for a
16 hearing aid for any such child 18 years of age or younger
17 diagnosed with hearing loss by a physician licensed under
18 chapter 458 or chapter 459 or by an audiologist licensed under
19 part I of chapter 468, and for whom the hearing aid is
20 prescribed as medically necessary. Coverage for a hearing aid
21 prescribed to a child 18 years of age or younger must require
22 the hearing aid to be prescribed, fitted, and dispensed by a
23 physician licensed under chapter 458 or chapter 459 or an
24 audiologist licensed under part I of chapter 468.

25 (3) The policy must provide benefits in any 24-month period
26 of at least \$3,500 per ear. The policy may limit coverage for
27 ear molds to six ear molds in any 24-month period. However, if a
28 child experiences a significant and unexpected change in his or
29 her hearing or a medical condition requiring an unexpected
30 change in the prescription for the hearing aid before the
31 existing 24-month period expires, and alterations to the
32 existing hearing aid do not or cannot meet the needs of the
33 child, a new 24-month period must begin with full benefits and
34 coverage.

35 (4) An insured is responsible for the cost of hearing aids
36 and related services which exceeds the coverage limit provided
37 by his or her policy.

38 (5) This section applies to a policy issued or renewed on
39 or after January 1, 2023.



737986

Section 2. Subsection (48) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(48) (a) A health maintenance organization issuing an individual contract that provides major medical or similar comprehensive coverage for a dependent child of the subscriber must provide coverage for a hearing aid for any such child 18 years of age or younger diagnosed with hearing loss by a physician licensed under chapter 458 or chapter 459 or by an audiologist licensed under part I of chapter 468, and for whom the hearing aid is prescribed as medically necessary. Coverage for a hearing aid prescribed to a child 18 years of age or younger must require the hearing aid to be prescribed, fitted, and dispensed by a physician licensed under chapter 458 or chapter 459 or an audiologist licensed under part I of chapter 468.

(b) The contract must provide benefits in any 24-month period of at least \$3,500 per ear. The contract may limit coverage for ear molds to six ear molds in any 24-month period. However, if a child experiences a significant and unexpected change in his or her hearing or a medical condition requiring an unexpected change in the prescription for the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not or cannot meet the needs of the child, a new 24-month period must begin with full benefits and coverage.

(c) A subscriber is responsible for the cost of hearing aids and related services which exceeds the coverage limit provided by his or her contract.



737986

(d) As used in this section, the term "hearing aid" means any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing, and includes ear molds. The term does not include a cochlear implant.

(e) This subsection applies to a contract issued or renewed on or after January 1, 2023.

Section 3. This act shall take effect January 1, 2023.

===== 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 hearing aids for children; creating s. 627.6413, F.S.; defining the term "hearing aid"; requiring certain individual health insurance policies to provide coverage for hearing aids for certain children 18 years of age or younger under certain circumstances; specifying certain coverage requirements; providing an exception; providing that an insured is responsible for certain costs that exceed the policy limit; providing applicability; amending s. 641.31, F.S.; requiring certain individual health maintenance organization contracts to provide coverage for hearing aids for certain children 18 years of age or younger under certain circumstances; specifying certain coverage requirements; providing an exception; providing that a



737986

98 subscriber is responsible for certain costs that
99 exceed the contract limit; defining the term "hearing
100 aid"; providing applicability; providing an effective
101 date.

By Senator Baxley

12-00760-22

2022498__

A bill to be entitled

An act relating to insurance coverage for hearing aids for children; creating s. 627.6413, F.S.; providing a definition of the term "hearing aid"; requiring certain individual health insurance policies to provide coverage for hearing aids for children 21 years of age or younger under certain circumstances; specifying health care providers who may prescribe, fit, and dispense the hearing aids; specifying a minimum coverage limit within a certain timeframe; providing an exception; providing that an insured is responsible for certain costs that exceed the policy limit; providing applicability; amending s. 641.31, F.S.; requiring certain individual health maintenance contracts to provide coverage for hearing aids for children 21 years of age or younger under certain circumstances; specifying health care providers who may prescribe, fit, and dispense the hearing aids; specifying a minimum coverage limit within a certain timeframe; providing an exception; providing that a subscriber is responsible for certain costs that exceed the contract limit; providing a definition of the term "hearing aid"; providing applicability; providing an effective date.

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

Section 1. Section 627.6413, Florida Statutes, is created to read:

Page 1 of 4

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

12-00760-22

2022498__

627.6413 Coverage for hearing aids for children.—

(1) As used in this section, the term "hearing aid" means any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for, impaired hearing.

(2) A health insurer issuing an individual policy that provides major medical or similar comprehensive coverage to an insured or a family member of an insured must provide coverage for a hearing aid for an insured child 21 years of age or younger who is diagnosed with hearing loss by a licensed physician or a licensed audiologist and for whom the hearing aid is prescribed as medically necessary. Coverage for a hearing aid prescribed to a child younger than 18 years of age must require the hearing aid to be prescribed, fitted, and dispensed by a licensed physician or a licensed audiologist. Coverage for a hearing aid prescribed to a child between 18 and 21 years of age, inclusive, must require the hearing aid to be fitted and dispensed by a licensed physician, a licensed audiologist, or a licensed hearing aid specialist.

(3) The policy must provide a minimum coverage limit of \$3,500 per ear within a 24-month period. However, if a child experiences a significant and unexpected change in his or her hearing or a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period expires, and if alterations to the existing hearing aid do not or cannot meet the needs of the child, a new 24-month period must begin with full benefits and coverage.

(4) An insured is responsible for the cost of hearing aids and related services which exceeds the coverage limit provided

Page 2 of 4

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

12-00760-22

2022498__

by his or her policy.

(5) This section applies to a policy issued or renewed on or after January 1, 2023.

Section 2. Subsection (48) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(48) (a) A health maintenance organization issuing an individual contract that provides major medical or similar comprehensive coverage to a subscriber or a family member of a subscriber must provide coverage for a hearing aid for a covered child 21 years of age or younger who is diagnosed with hearing loss by a licensed physician or a licensed audiologist and for whom the hearing aid is prescribed as medically necessary. Coverage for a hearing aid prescribed to a child younger than 18 years of age must require the hearing aid to be prescribed, fitted, and dispensed by a licensed physician or a licensed audiologist. Coverage for a hearing aid prescribed to a child between 18 and 21 years of age, inclusive, must require the hearing aid to be fitted and dispensed by a licensed physician, a licensed audiologist, or a licensed hearing aid specialist.

(b) The contract must provide a minimum coverage limit of \$3,500 per ear within a 24-month period. However, if a child experiences a significant and unexpected change in his or her hearing or a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period expires, and if alterations to the existing hearing aid do not or cannot meet the needs of the child, a new 24-month period must begin with full benefits and coverage.

(c) A subscriber is responsible for the cost of hearing

Page 3 of 4

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

12-00760-22

2022498__

aids and related services which exceeds the coverage limit provided by his or her contract.

(d) As used in this subsection, the term "hearing aid" means any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing.

(e) This subsection applies to a contract issued or renewed on or after January 1, 2023.

Section 3. This act shall take effect January 1, 2023.

Page 4 of 4

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

From: Phillips, Grant <Grant.Phillips@flor.com>
Sent: Tuesday, December 8, 2020 3:47 PM
To: Johnson, Lisa <JOHNSON.LISA@flsenate.gov>
Subject: Inquiries

Good Afternoon Lisa,

Please see the figures you requested below.

Please be aware that the information contained in this email is aggregated from Trade Secret information submitted by multiple insurers.

2020 Numbers- We don't have numbers for large group because they do not file rates and the report that collects large group numbers for 2020 is not due until next year. Additionally, these numbers are only for ACA plans.

Individual- 1,933,932- (Just ACA)

Small Group- 335,132 (Just ACA)

2019 Numbers- These numbers include all Major Med plans we regulate.

Individual- 1,765,807

Total Group- 1,968,873 (338k small group ACA)

For your second question regarding which companies offer coverage for hearing aids. Currently, UnitedHealthcare (All Savers, Neighborhood Health, etc.) covers hearing aids if recommended by a physician, and bone-anchored hearing aids are covered with some restrictions. Molina and Health First cover implant type hearing aids if medically necessary.

Please let me know if there is anything else you need!

Best Regards,

Grant Phillips | Deputy Director of Government Affairs
Florida Office of Insurance Regulation
Tallahassee, FL 32301
Office Phone-850-413-2427
Grant.Phillips@flor.com



Twenty-five states (AK, CT, CO, DE, GA, ID, KY, LA, MA, MD, ME, MN, MO, NH, NJ, NM, NC, OH, OK, OR, RI, TN, TX, WI) require health benefit plans cover hearing aids for children. The proposed Florida requirement has adopted the best parts of those existing in other states and will make Florida a model for pediatric hearing care in the country.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0600-0699/0624/Sections/0624.215.html

...Guidelines for assessing the impact of a proposed mandated or mandatorily offered health coverage, to the extent that information is available, shall include:

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

There is no known registry or recent survey data that estimated overall hearing loss in Florida's pediatric population. However, it is possible to estimate the number of children with hearing loss needing hearing aids from various sources including data from the CDC, the U.S. Census, and Early Hearing Detection and Intervention reports.

Florida Population ¹	21,477,737
Florida Population Under 0-18 (19.7%) ²	4,231,114
All Floridians with individual major medical plans	1,765,807
19.7% of all covered lives on individual major medical plans are under 18	347,864
0.17% of children have hearing loss ³	7,193.00
0.17% of the children who have individual major medical plans	591
2% of of .17% slight loss/no HA needed ⁴	-12
30% of .17% severe to profound sensorineural or mixed loss/ CI candidate ⁵	-177
.17% of 16,170 Children Receiving Early Steps ⁶	-11
Impacted HA Candidates	461

¹ US Census 2019 <https://www.census.gov/quickfacts/FL>

² US Census 2019 <https://www.census.gov/quickfacts/FL>

³ See Documented Diagnosis Section. This is the most recent available data (2018).

⁴ <https://www.cdc.gov/ncbddd/hearingloss/2018-data/01-data-summary.html>

⁵ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

⁶ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

⁶ http://www.cms-kids.com/providers/early_steps/reports/Earlystepsannualreport.pdf

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

There is no existing law mandating coverage for hearing aids for private insurance. Despite this, in recent years some private insurance policies have begun to include hearing aid coverage. For children ages 0-18 years in Florida, hearing aids for children are covered by the Early Steps Program (ages 0-3 years), Medicaid, the Children's Health Insurance Programs (CHIP), and Tricare/Other Public Insurance. With the exception of Early Steps, these children have been excluded from this evaluation. Data is not available for the percentage of individual major medical plans that already include hearing aid coverage for children. Therefore, some children are included who will already have coverage.

(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.

There is no known registry or recent survey data that estimates the percentage of children with hearing loss that avoid hearing aids due to lack of coverage. The most recent survey of the general United States population that may provide some insight to the extent non-coverage has on hearing aid adoption was completed 6 years ago (Abrams & Kihm, 2015). This study found that 51% of people with hearing loss that did not have hearing aids ("non-owners") said that having insurance coverage would facilitate buying hearing aids.

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

Hearing aids and the services to properly prescribe, evaluate, fit, and manage children with hearing loss generally cost an average of \$3,500 per ear depending on the technology and enhancements selected by the audiologist based on the individual needs of the child. The associated costs to families of children with hearing loss include, for example, services for frequent adjustments; fittings of new ear molds necessary to accommodate the child's growth—up to 4 times per year for children until at least age 10 years; and, the on-going management required for children to assure their hearing aids are working optimally to maximize their ability to acquire communication and educational skills.

Today's hearing aids are complex computer programmed digital technology that must be individually fit to every child. They not only restore audibility based on individual needs but offer beneficial features such as noise and feedback management and various programs based on the listening environment. The hearing aids also feature wireless streaming permitting the child to audio-stream directly to the hearing aids as well as communicate with classroom and large group amplification systems, e.g., theaters, classrooms, churches. These features increase accessibility of essential services such as education, telemedicine, religious services, and the ability to communicate with emergency services via telephone.

The fitting process is verified by the audiologist using probe tube measurements of the child's ear canal to ensure that the child is being properly amplified based on their individual needs and the individual anatomical

and physiologic measurements of the child's auditory system. For young children, they must return to the audiologist at least monthly while adolescents may return to the audiologist quarterly.

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

See section A above.

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

See section C above.

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

Collective bargaining agents typically advocate for broader benefits than what is proposed in this bill. Collective bargaining agents for private insurance companies do not appear to have advocated specifically for the inclusion of this benefit in their health benefit packages.

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

Treatment services (hearing aids) should remain roughly the same; it is a small population that would fall into this coverage and should not impact the overall costs. Hearing aid costs range from practice to practice based on each practice's buying power from manufacturers and their sales model (which is why there is a range in cost). This bill should not change how much a service provider charges for their services and goods related to hearing aids.

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

There are no available studies to determine a specific amount of increase in appropriate use of hearing aids and their related services. It is believed that having coverage will increase the number of children using hearing aids and their related services.

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

Untreated hearing loss leads to tremendous expense for the taxpayer.

- Untreated pediatric hearing loss costs \$420,000 in special education costs per child and \$1 million over the lifetime of the individual.⁷
- The impact to each Floridian of failure to treat the 461 children addressed by this legislation is \$461 million or \$21.46 per citizen of Florida.

⁷ Johnson, J.L., Mauk, G.W., Takekawa, K.M., Simon, P.R., Sia, C.C.J. and Blackwell, P.M. Implementing a statewide system of services for infants and toddlers with hearing disabilities. *Seminars in Hearing*. 1993; 14:105-119

- Longitudinal, peer-reviewed studies have shown that healthcare costs are significantly higher for individuals with untreated vs treated hearing loss.^{8,9}
- Increased costs are not confined to the medical bills in the studies. Medical providers must absorb (and pass on via increased overall costs) costs incurred from longer visit times due to communication difficulties¹⁰, increased risk of malpractice lawsuits from communication difficulties¹¹, and necessary accommodations like interpreter services.^{12 13 14 15}
- Communication difficulties in deaf and hard of hearing patients, which would be mitigated by appropriate access to sound, result in more physician visits and overuse of emergency rooms and urgent care centers.¹⁶
- Patients with untreated hearing loss are more likely to be misdiagnosed when visiting providers for unrelated health issues and are more difficult to treat due to communication difficulties.¹⁷

⁸ Reed, N., Altan, A., Deal, J., Yeh, C., Kravetz, A., Wallhagen, M., & Lin, F. (2019). Trends in Health Care Costs and Utilization Associated With Untreated Hearing Loss Over 10 Years. *JAMA Otolaryngology-Head & Neck Surgery*, 145(1), 27. doi: 10.1001/jamaoto.2018.2875

⁹ Simpson, A., Simpson, K., & Dubno, J. (2016). Higher Health Care Costs in Middle-aged US Adults With Hearing Loss. *JAMA Otolaryngology-Head & Neck Surgery*, 142(6), 607. doi: 10.1001/jamaoto.2016.0188

¹⁰ Fagan, M., Diaz, J., Reinert, S., Sciamanna, C., & Fagan, D. (2003). Impact of interpretation method on clinic visit length. *Journal Of General Internal Medicine*, 18(8), 634-638. doi: 10.1046/j.1525-1497.2003.20701.x

¹¹ Legal Risks of Ineffective Communication. (2007). *Virtual Mentor*, 9(8), 555-558. doi: 10.1001/virtualmentor.2007.9.8.hlaw1-0708

¹² Jacobs, B., Ryan, A., Henrichs, K., & Weiss, B. (2018). Medical Interpreters in Outpatient Practice. *The Annals Of Family Medicine*, 16(1), 70-76. doi: 10.1370/afm.2154

¹³ Questions and Answers for Health Care Providers. (2019). Retrieved from <https://www.nad.org/resources/health-care-and-mental-health-services/health-care-providers/questions-and-answers-for-health-care-providers/>

¹⁴ Flores, G., Abreu, M., Barone, C., Bachur, R., & Lin, H. (2012). Errors of Medical Interpretation and Their Potential Clinical Consequences: A Comparison of Professional Versus Ad Hoc Versus No Interpreters. *Annals Of Emergency Medicine*, 60(5), 545-553. doi: 10.1016/j.annemergmed.2012.01.025

¹⁵ Juckett, G., & Unger, K. (2019). Appropriate Use of Medical Interpreters. Retrieved from <https://www.aafp.org/afp/2014/1001/p476.html>

¹⁶ Position Statement On Health Care Access For Deaf Patients. (2019). Retrieved from <https://www.nad.org/about-us/position-statements/position-statement-on-health-care-access-for-deaf-patients/>

¹⁷ Position Statement On Health Care Access For Deaf Patients. (2019). Retrieved from <https://www.nad.org/about-us/position-statements/position-statement-on-health-care-access-for-deaf-patients/>

- Secondarily developing language, cognitive, behavioral and mental health diagnoses^{18 19 20} lead to increased covered physician and therapy visits.
- Even a mild untreated hearing loss doubles the risk of dementia and cognitive decline. A severe to profound loss causes five times the risk.²¹
- Increased costs compound over time. Children with untreated hearing loss miss the window to develop effective spoken language and risk factors and secondary medical costs build. Even in post lingual hearing loss for adults, increased costs go from 26% more after two years to 46% more after ten years.²²
- Deaf and hard of hearing children have a narrow window to develop effective spoken language.²³ Better outcomes are associated with earlier amplification and access to auditory oral services.^{24 25} Most increased medical costs associated with hearing loss are a result of ineffective communication. Developing effective language in childhood results in a lifetime of savings in educational, healthcare, and disability related costs.
- The median reading level for deaf adults has long been 3rd grade, limiting access to health and safety information, job prospects, and other opportunities.²⁶
- Deaf adults without adequate spoken language access face staggering unemployment rates.²⁷

¹⁸ Hogan, A., Shipley, M., Strazdins, L., Purcell, A., & Baker, E. (2011). Communication and behavioural disorders among children with hearing loss increases risk of mental health disorders. *Australian And New Zealand Journal Of Public Health*, 35(4), 377-383. doi: 10.1111/j.1753-6405.2011.00744.x

¹⁹ FELLINGER, J., HOLZINGER, D., SATTEL, H., LAUCHT, M., & GOLDBERG, D. (2009). Correlates of mental health disorders among children with hearing impairments. *Developmental Medicine & Child Neurology*, 51(8), 635-641. doi: 10.1111/j.1469-8749.2008.03218.x

²⁰ Arlinger, S. (2003). Negative consequences of uncorrected hearing loss—a review. *International Journal Of Audiology*, 42(sup2), 17-20. doi: 10.3109/14992020309074639

²¹ Lin, F., Metter, E., O'Brien, R., Resnick, S., Zonderman, A., & Ferrucci, L. (2011). Hearing Loss and Incident Dementia. *Archives Of Neurology*, 68(2). doi: 10.1001/archneurol.2010.362

²² Reed, N., Altan, A., Deal, J., Yeh, C., Kravetz, A., Wallhagen, M., & Lin, F. (2019). Trends in Health Care Costs and Utilization Associated With Untreated Hearing Loss Over 10 Years. *JAMA Otolaryngology-Head & Neck Surgery*, 145(1), 27. doi: 10.1001/jamaoto.2018.2875

²³ Supporting Success For Children With Hearing Loss | Brain Development & Hearing Loss. (2019). Retrieved from

<https://successforkidswithhearingloss.com/for-professionals/brain-development-hearing-loss/>

²⁴ Goldblat, E., & Pinto, O. (2017). Academic outcomes of adolescents and young adults with hearing loss who received auditory-verbal therapy. *Deafness & Education International*, 19(3-4), 126-133. doi: 10.1080/14643154.2017.1393604

²⁵ Ching, T., Dillon, H., Leigh, G., & Cupples, L. (2017). Learning from the Longitudinal Outcomes of Children with Hearing Impairment (LOCHI) study: summary of 5-year findings and implications. *International Journal Of Audiology*, 57(sup2), S105-S111. doi: 10.1080/14992027.2017.1385865

²⁶ Qi, S., & Mitchell, R. (2011). Large-Scale Academic Achievement Testing of Deaf and Hard-of-Hearing Students: Past, Present, and Future. *Journal Of Deaf Studies And Deaf Education*, 17(1), 1-18. doi: 10.1093/deafed/enr028

²⁷ Deaf Employment Reports. (2019). Retrieved from

<https://www.gallaudet.edu/research-support-and-international-affairs/research-support/research-resources/demographics/deaf-employment-reports>

- “The estimated cost in lost earnings due to untreated hearing loss is \$122 billion while the cost to society in terms of unrealized Federal Taxes is \$18 billion.”²⁸
- Children who receive both appropriate amplification and timely, qualified auditory oral services achieve language scores²⁹, literacy³⁰, and academic success comparable to hearing peers while educated in mainstream classrooms³¹. They no longer qualify for social security disability³² and face better job prospects upon entering the workforce.

²⁸ (2019). Retrieved from

http://hearingaidsterrehaute.com/uploads/MarkeTrak7_ImpactUntreatedHLLIncome.pdf

²⁹ Rhoades, E. (2006). Research Outcomes of Auditory-Verbal Intervention: Is the Approach Justified?. *Deafness & Education International*, 8(3), 125-143. doi: 10.1179/146431506790560157

³⁰ Robertson, C. (2019). Reading Development: A Parent Survey of Children with Hearing Impairment Who Developed Speech and Language through the Auditory-Verbal Method. Retrieved from <https://eric.ed.gov/?id=EJ474410>

³¹ Lim, S., Goldberg, D., & Flexer, C. (2018). Auditory-Verbal Graduates—25 Years Later: Outcome Survey of the Clinical Effectiveness of the Listening and Spoken Language Approach for Young Children with Hearing Loss. *The Volta Review*, 118(1.2), 5-40. doi: 10.17955/tvr.118.1.2.790

³² 2.00-Special Senses and Speech-Adult. (2019). Retrieved from <https://www.ssa.gov/disability/professionals/bluebook/2.00-SpecialSensesandSpeech-Adult.htm>

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

Florida Population ³³	21,477,737
Florida Population Under 0-18 (19.7%) ³⁴	4,231,114
All Floridians with individual major medical plans	1,765,807
19.7% of all covered lives on individual major medical plans are under 18	347,864
0.17% of children have hearing loss ³⁵	7,193.00
0.17% of the children who have individual major medical plans	591
2% of of .17% slight loss/no HA needed ³⁶	-12
30% of .17% severe to profound sensorineural or mixed loss/ CI candidate ³⁷	-177
.17% of 16,170 Children Receiving Early Steps ³⁸	-11
Impacted HA Candidates	461
39% unilateral ³⁹	180
61% bilateral ⁴⁰	281
Cost per Unilateral (\$3500 per ear over 24 months)	\$630,000
Cost Per Bilateral (\$3500 per ear over 24 months)	\$1,967,000
Total Cost Over 24 Months	\$2,597,000
Cost per Year	\$1,298,500
Annual Cost per Covered Life (\$1,298,500 spread over 1,765,807 Covered Lives)	\$0.74
Cost Per Month Per Current Covered Life	\$0.06

³³ US Census 2019 <https://www.census.gov/quickfacts/FL>

³⁴ US Census 2019 <https://www.census.gov/quickfacts/FL>

³⁵ See Documented Diagnosis Section. This is the most recent available data (2018).

<https://www.cdc.gov/ncbddd/hearingloss/2018-data/01-data-summary.html>

³⁶ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

³⁷ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

³⁸ http://www.cms-kids.com/providers/early_steps/reports/Earlystepsannualreport.pdf

³⁹ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

⁴⁰ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

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

The proposed mandate is not expected to have a significant impact on total cost of healthcare in the state of Florida. The insurance companies will likely experience an increase in costs; however, the projected increase is negligible relative to the overall lifetime costs associated with children needing special education and loss of earning potential. A World Health Organization report⁴¹ in 2017 "shows that unaddressed hearing loss poses substantial costs to the health-care system and to the economy as a whole." The report further concludes that "provision of hearing devices is a cost-effective strategy, especially when used regularly and supported with rehabilitation services."

There is a preponderance of evidence supporting the positive effects and benefits of hearing aids and the Florida Hearing Care for Children Act. There is clear evidence in the literature demonstrating that fitting children with hearing aids is associated with greater gains in their development of speech and language. Risk for language delays in children with hearing loss may be mitigated from early age of fitting and consistent use of hearing aids.

The Florida Hearing Care for Children Act will benefit the families of children with hearing loss while ensuring children will be provided with hearing aid technology that meets their educational and communication needs so that they can reach their full potential.

41

<https://apps.who.int/iris/bitstream/handle/10665/254659/9789241512046-eng.pdf;jsessionid=4C6885EEED6E0752817A93B62E5B033B?sequence=1>

Prepared by The Florida Coalition For Spoken Language Options

The Florida Senate

APPEARANCE RECORD

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

January 12, 2022
Meeting Date

Banking & Insurance
Committee

SB 0498

Bill Number or Topic

Amendment Barcode (if applicable)

Name Damaris Allen Phone 407.855.7604

Address 1747 Orlando Parkway Email legislative@Floridapta.org
Street

Orlando, FL 32809
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

Florida PTA

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/22

Meeting Date

0498 Hearing aids

Bill Number or Topic

Banking Insurance

Committee

Amendment Barcode (if applicable)

Name Laura Schofield

Phone 904 343 7049

Address 2904 Biloxi Trl

Email Leschofield@gmail.com

Street

Middleburg

FL

32068

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

1/12/22

Meeting Date

Banking + Insurance

Committee

0498 Hearings

Bill Number or Topic

Name

Joey Schofield

Phone

904 343 7049

Address

2904 Biloxi Trl

Email

Street

Middleburg FL

City

State

32068

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate

APPEARANCE RECORD

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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

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:

☐

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate
APPEARANCE RECORD

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

0498 Hemming
A.25 B.11

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Committee

Name

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:

☐ 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. [2020-2022 Joint Rules.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:
Ethics and Elections, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee,
Alternating Chair

SENATOR DENNIS BAXLEY

12th District

November 15, 2021

The Honorable Chair Jim Boyd
312 Senate Office Building
Tallahassee, Florida 32399

Dear Chair Boyd,

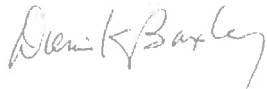
I would like to request that SB 498 Insurance Coverage for Children with Hearing Aids be heard in the next Banking and Insurance Committee meeting.

This would require a private health insurance policy that provides coverage on an expense-incurred basis for a member of the family of the insured must provide health insurance benefits that include coverage for children diagnosed with hearing loss from birth through 18 years of age for hearing aids prescribed, fitted, and dispensed by a licensed audiologist.

An insurer must provide a minimum coverage amount of \$3,500 per ear within a 24-month period. However, if a child experiences a significant and unexpected change in his or her hearing or a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period has expired, and alterations to the existing hearing aid do not or cannot meet the needs of the child, a new 24-month period shall begin with full benefits and coverage. Also, the insured is responsible for the cost of hearing aids and related services that exceed the coverage provided by his or her policy.

Thank you for your favorable consideration.

Onward & Upward,



Senator Dennis K. Baxley
Senate District 12

DKB/dd

cc: James Knudson, Staff Director

REPLY TO:

- ☐ 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- ☐ 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- ☐ 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 578

INTRODUCER: Banking and Insurance Committee and Senator Hooper

SUBJECT: Hurricane Loss Mitigation Program

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Fav/CS
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 578 extends the Hurricane Loss Mitigation Program (HLMP) within Florida's Division of Emergency Management (DEM) until June 30, 2032. The HLMP funds programs that improve the wind resistance of residences and public hurricane shelters. The HLMP program operations are funded through an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund to the Division of Emergency Management. The HLMP and the associated \$10 million appropriation from the Florida Hurricane Catastrophe Fund (Cat Fund) are set to expire on June 30, 2022.

The bill expands the list of projects which are eligible to receive funds allocated under the HLMP for retrofitting existing public hurricane facilities to include construction of new public hurricane facilities.

The bill also creates a recurring annual appropriation of \$2 million from Cat Fund investment income to the University of South Florida School of Risk Management and Insurance for the purpose of researching Florida's property insurance market.

The bill takes effect upon becoming law.

II. Present Situation:

Hurricane Loss Mitigation Program

In 1999,¹ the Legislature created the HLMP within the DEM² for funding programs for improving the wind resistance of residences and mobile homes. The HLMP can provide funding through loans, subsidies, grants, demonstration projects, and direct assistance. It also funds cooperative programs with local governments and the federal government to reduce hurricane losses or the costs of rebuilding after a disaster.

The HLMP is funded by an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund.³ Specifically, current law requires the funds to be used as follows:

- \$3 million must be directed toward retrofitting existing facilities used as public hurricane shelters. DEM must prioritize the use of these funds for projects included in the annual Shelter Retrofit Report.⁴ DEM must similarly prioritize these funds to projects in regional planning council regions with shelter deficits and projects that maximize the use of state funds.⁵
- \$7 million must be directed toward programs that improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code; and other efforts to prevent or reduce losses or reduce the cost of building after a disaster.⁶

Of the \$7 million allocated to improve the wind resistance of residences and mobile homes, provide education regarding Florida Building Code cooperative programs, and reduce the cost of rebuilding after a disaster:

- 50 percent (\$3.5 million) is directed to grant funding for governmental entities, nonprofit organizations, and qualified for-profit organizations to improve the resiliency of residential, community, and government structures within their communities.
- 40 percent (\$2.8 million) must be directed to the Manufactured Housing and Mobile Home Mitigation and Enhancement Program (Mobile Home Tie-Down Program) to mitigate future losses for mobile homes and inspect and improve tie-downs for mobile homes. The program is administered by Tallahassee Community College (TCC).⁷
- 10 percent (\$700,000) must be directed to the Florida International University (FIU) for hurricane research.⁸

¹ Chapter 99-305, L.O.F.

² In 2011, the Legislature transferred the DEM to the Executive Office of the Governor, where it presently resides. See Chapter 2011-142, L.O.F.

³ Section 215.559(1), F.S.

⁴ The Shelter Retrofit Report is prepared annually and separately submitted to the Governor and the Legislature. See Section 252.385, F.S.

⁵ Section 215.559(1)(b), F.S.

⁶ Section 215.559(1)(a), F.S.

⁷ Section 215.559(2), F.S.

⁸ Section 215.559(3), F.S.

On January 1 of each year, DEM submits an annual report⁹ and accounting of activities under the HLMP and an evaluation of the activities. The report must be submitted to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate. The Office of Insurance Regulation (OIR) must review the report and make recommendations to the insurance industry as deemed appropriate.¹⁰

The HLMP expires on June 30, 2022.¹¹

Mobile Home Mitigation and Enhancement Program (Mobile Home Tie-Down Program)

The Mobile Home Tie-Down Program operates as a constituent part of the HLMP to mitigate future losses and inspect and improve tie-downs for mobile homes built before 1999 to meet the current standards established in Rules 15C-1.0101 through 15C-1.0109, F.A.C. Mitigation under the Mobile Home Tie-Down Program includes problems associated with weakened trusses, studs, and other structural component caused by wood rot or termite damage; site-built additions, such as porches or carports; tie-down systems; and any additional issues deemed appropriate by TCC, the Federation of Manufactured Home Owners of Florida, the Florida Manufactured Housing Association, and the Department of Highway Safety and Motor Vehicles (DHSMV).¹²

The Mobile Home Tie-Down Program is funded by a direct \$2.8 million allocation under the HLMP to TCC, which serves as program administrator.¹³ The Mobile Home Tie-Down Program does not, and mobile homes are ineligible to, receive federal mitigation funds under Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation Grant, Building Resilient Infrastructure and Communities, or Hazard Mitigation Grant programs.

Since 1999, the Mobile Home Tie-Down Program has served over 40,000 mobile homes in over 275 mobile home communities.¹⁴ Activities during the 2019-2020 fiscal year included 1,702 completed mobile homes in 14 mobile home communities.¹⁵ COVID-19 travel, inspection, and community access restrictions prevented the Mobile Home Tie-Down Program from expensing 100% of the allocated funds.¹⁶

Third-party studies of the Mobile Home Tie-Down Program report improved wind resistance following participation in the program. In 2005, a FEMA Mitigation Branch Technical Services Division study of impacted mobile home communities during the 2004 hurricane season reported 4 percent to 5 percent of inspected mobile homes with retrofitted tie-downs were substantially

⁹ Hurricane Loss Mitigation Reports reside on the DEM website: <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last accessed November 4, 2021).

¹⁰ Section 215.559(6), F.S.

¹¹ Section 215.559(7), F.S.

¹² Section 215.559(2)(b)1, F.S.

¹³ Section 215.559(2)(a), F.S.

¹⁴ Florida Housing Coalition, *Hurricane Member Update Webinar* (August 28, 2020), <https://www.flhousing.org/wp-content/uploads/2020/09/FHC-Hurricane-Member-Update-8-28-20.pdf> (last visited November 4, 2021).

¹⁵ Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2019 Annual Report* (January 1, 2020), <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last visited November 4, 2021).

¹⁶ *Id.* at note 14.

damaged.¹⁷ The same study reported that the primary cause of damage to mobile homes was caused by roof failure associated with the destruction of carports and sunrooms not constructed to code.¹⁸

As of December 2020, the Mobile Home Tie-Down Program reported a current waiting list of seven years.¹⁹ TCC is not accepting new applications until the waiting list shortens to three years.²⁰

Program Audits

Several third-party audits have made recommendations for improving the Mobile Home Tie-Down Program. FEMA's 2005 study, *Third Party Analysis of Manufactured Home Retrofit Tie Downs*, observed up to 90 percent of all original tie-down straps and a significant percentage of retrofit tie-down straps were loose, increasing the likelihood of rotation of the upper structure upon wind loading of the side and flexure of the entire structural system. The study recommended sizing of tie-down anchors according to soil probe tests during installation to reduce pullout.²¹

In 2016, the Florida Auditor General audited 3,033 DEM contracts between July 2013 and January 2015 for compliance with state law requiring the DEM to timely provide the public with access to state contracts and grant financial information.²² The subsequent report recommended DEM enhance procedures to ensure that contract information is timely made public, citing 72 percent timeliness rates for contracts executed prior to July 2013 and 64 percent timeliness rates for contracts executed after July 2013, respectively.²³

Also, in 2016, the Department of Financial Services Bureau of Auditing (Bureau) audited 10 DEM contracts and grants between January 2015 and December 2015, including the Mobile Tie-Down Program, as a follow-up to its previous audit disclosing a contract deficiency rate of 95% and a management deficiency rate of 43%.²⁴ The Bureau determined the Mobile Home Tie-Down Program should be classified as "grant and aid," with future payments from DEM to TCC

¹⁷ Federal Emergency Management Agency, Mitigation Section, Technical Services Branch, *Third Party Analysis of Manufactured Home Retrofit Tie Downs* (June 2005) at p.3. On file with the Senate Committee on Banking and Insurance (February 16, 2021).

¹⁸ *Id.* at p. 5.

¹⁹ Telephone conversation with Amy Bradbury, Director of Financial Planning and Sponsored Programs, Tallahassee Community College, in Tallahassee, Fla. (December 14, 2020).

²⁰ Tallahassee Community College, *Mobile Home Tie-Down Program*, <https://www.tcc.fl.edu/about/college/administrative-services/sponsored-programs/mobile-home-tie-down-program/> (last visited November 4, 2021).

²¹ Federal Emergency Management Agency, Mitigation Section, Technical Services Branch, *Third Party Analysis of Manufactured Home Retrofit Tie Downs* (June 2005) at p. 8. On file with the Senate Committee on Banking and Insurance (February 16, 2021).

²² See State of Florida Auditor General, *Operational Audit: Division of Emergency Management Contract and Grant Management and Prior Audit Follow-Up* (April 2016), https://flauditor.gov/pages/pdf_files/2016-188.pdf at p. 2. (last visited November 4, 2021).

²³ *Id.* at p. 3.

²⁴ May 10, 2016 Letter from Department of Financial Services Bureau of Auditing to Division of Emergency Management Director Bryan Koon, https://www.myfloridacfo.com/division/aa/Aud_Act/docs/DEM%20Report%20dtd%205-10-2016_Redacted.pdf (last visited November 4, 2021).

subject to a written agreement for services to include a clear scope of work, deliverables, financial consequences, and monitoring.²⁵

Fiscal Year 2016-2017 Adopted Recommendations and Program Improvements

In the 2016-2017 fiscal year, DEM executed a written agreement for services with TCC to administer the Mobile Home Tie-Down Program, which included a clear scope of work, deliverables, financial consequences, and monitoring. Other notable program changes that were adopted include:²⁶

- Payment of funds are subject to cost reimbursement procedures instead of an automatic draw.
- Quarterly submission of invoices and program reports to DEM.
- RFP open to multiple vendors.
- RFP requirement of licensed mobile home installers
- DEM monitoring of the program, including on-site visits and limited scope audits.
- Required pre-inspection process.
- Submission of reports to DEM identifying homes prior to mitigation.
- DHSMV audits of mobile home installers' post-inspection reports
- Removal of the percentage of participating homes within a community as a factor in serving a community.
- Participation by individual mobile homeowners and communities without an established HOA.

Florida Hurricane Catastrophe Fund (FHCF)

The FHCF is a tax-exempt²⁷ fund created in 1993²⁸ after Hurricane Andrew²⁹ as a form of mandatory reinsurance for residential property insurers. The FHCF is administered by the State Board of Administration (SBA)³⁰ and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent)³¹ of hurricane losses above the insurer's retention (deductible). The FHCF provides insurers an additional source of reinsurance that is less expensive than what is available in the private market, enabling insurers to generally write more residential property insurance in the state than would otherwise be written. Because of the low cost of coverage from the FHCF, the fund acts to lower residential property insurance premiums for consumers.

All insurers admitted to do business in this state writing residential property insurance that includes wind coverage must buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF.³² The FHCF is authorized by statute to sell \$17 billion of

²⁵ *Id.* at p. 3.

²⁶ Department of Financial Services, *Florida Accountability Contract Tracking System Grant Disbursement Information*, <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=310000&ContractId=D9042> (last visited November 4, 2021).

²⁷ Section 215.555(1)(f), F.S.

²⁸ Chapter 93-409, L.O.F.

²⁹ Ed Rappaport, *Preliminary Report, Hurricane Andrew* (updated Dec. 10, 1993; addendum Feb. 7, 2005), <https://www.nhc.noaa.gov/1992andrew.html>.

³⁰ State Board of Administration of Florida, *About the SBA*, <https://www.sbafla.com/fsb/> (last visited November 4, 2021).

³¹ Section 215.555(2)(e), F.S.

³² Section 215.555(4)(a), F.S.

mandatory layer coverage.³³ Each insurer that purchases coverage may receive up to its proportional share of the \$17 billion mandatory layer of coverage based upon the insurer's share of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. Each insurer may select a reimbursement contract wherein the FHCF promises to reimburse the insurer for 45 percent, 75 percent, or 90 percent of covered losses, plus 10 percent³⁴ of the reimbursed losses for loss adjustment expenses.³⁵

The FHCF must charge insurers the actuarially indicated premium³⁶ for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.³⁷ The actuarially indicated premium is determined by the principles of actuarial science to be adequate to pay current and future obligations and expenses of the fund.³⁸

When the moneys in the FHCF are or will be insufficient to cover losses, the law³⁹ authorizes the FHCF to issue revenue bonds funded by emergency assessments on all lines of insurance except medical malpractice and workers compensation.⁴⁰ Emergency assessments may be levied up to 6 percent of the premium for losses attributable to any one contract year and up to 10 percent of the premium for aggregate losses from multiple years. The FHCF's broad-based assessment authority is one reason the FHCF was able to obtain an exemption from federal taxation from the Internal Revenue Service as an integral part of state government.⁴¹

Citizens Property Insurance Corporation (Citizens)

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.⁴² Citizens is not a private insurance company.⁴³ Citizens was statutorily created in 2002 when the 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). Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight-member Board of Governors⁴⁴ that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of

³³ Section 215.555(4)(c)1., F.S.

³⁴ Section 215.555(4)(b)1., F.S.

³⁵ Loss adjustment expenses are costs incurred by insurers when investigating, adjusting, and processing a claim.

³⁶ Section 215.555(5)(a), F.S.

³⁷ See State Board of Administration, *Florida Commission on Hurricane Loss Methodology*, <https://www.sbafla.com/method/> (last visited November 4, 2021).

³⁸ Section 215.555(2)(a), F.S.

³⁹ Section 215.555(6), F.S.

⁴⁰ Section 215.555(6)(b), F.S.

⁴¹ The U.S. Internal Revenue Service has, by a Private Letter Ruling, authorized the FHCF to issue tax-exempt bonds. The initial ruling was granted on March 27, 1998, for 5 years until June 30, 2003. On May 28, 2008, the Internal Revenue Service issued a private letter ruling holding that the prior exemption, which was to expire on June 30, 2008, could continue to be relied upon on a permanent basis (on file with the Committee on Banking and Insurance).

⁴² Admitted market means insurance companies licensed to transact insurance in Florida.

⁴³ Section 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the OIR.

⁴⁴ The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives each appoint two members.

Representatives, and Chief Financial Officer each appoint two members to the board. Citizens is subject to regulation by the OIR.

Citizens offers property insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surplus and deficits.⁴⁵ Assets may not be commingled or used to fund losses in another account.⁴⁶

Citizens Insurance Rates

Citizens' rates for coverage are required to be actuarially sound and, except as otherwise provided in s. 627.351, F.S., are subject to the rate standards for property and casualty insurance in s. 627.062, F.S.⁴⁷ From 2007 until 2020, Citizens rates were frozen by statute at the level that had been established in 2006. In 2010, the Legislature established a "glide path" to impose annual rate increases up to an actuarially sound level. The Legislature subsequently increased the glide path in 2021. Citizens must implement an annual rate increase which, except for sinkhole coverage, does not exceed a 10 percent cap above the previous year for any individual policyholder, adjusted for coverage changes and surcharges, which increases by 1 percent annually until the cap reaches 15 percent in 2026.⁴⁸

Citizens Eligibility

Under current law, an applicant for residential insurance cannot buy insurance in Citizens if an admitted insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 20 percent or more.⁴⁹ In addition, the coverage offered by the private insurer must be comparable to Citizens' coverage. Current Citizens policyholders cannot renew a Citizens insurance policy if an insurer in the private market offers to insure the property at a premium equal to or less than the Citizens' renewal premium. The insurance from the private market insurer must be comparable to the insurance from Citizens in order for the renewal premium eligibility requirement to apply.⁵⁰

Mobile Home Coverage under Citizens

Florida law currently requires Citizens to offer mobile home dwellings coverage with a minimum insured value of at least \$3,000,⁵¹ limited to the primary dwelling and certain attached structures.⁵² Such coverage must include attached screened enclosures, attached carports, and attached patios.⁵³ Losses to the mobile home dwelling are adjusted based on the actual cash value. The actual cash value of the mobile home is determined by subtracting depreciation from

⁴⁵ The Personal Lines Account and the Commercial Lines Account are combined for credit and Florida Hurricane Catastrophe Fund coverage.

⁴⁶ Section 627.351(6)(b)2b., F.S.

⁴⁷ Among the factors OIR considers when reviewing a rate filing is the degree of competition among the insurers for the risk insured, per s. 627.062(3)(b), F.S.

⁴⁸ Section 627.351(6)(n)5., F.S.

⁴⁹ Section 627.351(6)(c)5., F.S.

⁵⁰ Section 627.351(6)(c)5., F.S.

⁵¹ Section. 627.351(6)(c)(17), F.S.

⁵² Citizens Property Insurance Corporation, *Citizens Mobile Home Policies: Types of Coverage* (August 2019), <https://www.citizensfla.com/documents/20702/31376/Mobile+Home+Policies+Coverage+Types/e61c3b40-50aa-4789-8508-51ad26ac3450> (last visited November 4, 2021).

⁵³ Section 627.351(6)(c)(17), F.S.

the estimated replacement cost.⁵⁴ Separate from its statutorily mandated mobile home coverage, Citizens automatically includes sinkhole loss coverage in such policies, except for wind-only policies.⁵⁵ Citizens also offers optional coverages for other structures not physically attached to the primary dwelling.⁵⁶ As of September 30, 2021, Citizens insures 74,654 mobile homes across Florida.⁵⁷

III. Effect of Proposed Changes:

Section 1 creates a recurring annual appropriation of \$2 million from Florida Hurricane Catastrophe Fund investment income to the University of South Florida School of Risk Management and Insurance for the purpose of researching Florida's property insurance market, provided the State Board of Administration does not determine that the appropriation would jeopardize the actuarial soundness of the Florida Hurricane Catastrophe Fund.

Section 2 extends until June 30, 2032, the Hurricane Loss Mitigation Program (HLMP) within the Florida's Division of Emergency Management (DEM). The HLMP funds programs that improve the wind resistance of residences and public hurricane shelters. The HLMP program operations are funded through an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund to the Division of Emergency Management. The HLMP and the associated \$10 million appropriation from the Florida Hurricane Catastrophe Fund are set to expire on June 30, 2022.

The bill expands the list of projects which are eligible to receive funds allocated under the HLMP for retrofitting existing public hurricane facilities to include construction of new public hurricane facilities.

Section 3 provides the act takes effect 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.

⁵⁴ See note 55.

⁵⁵ See note 55.

⁵⁶ *Id.*

⁵⁷ Citizens Property Insurance Corporation, *Corporate Analytics Business Overview* (September 2021), <https://www.citizensfla.com/documents/20702/93064/20210930+Business+Overview.pdf/1792993b-e005-22f7-b8e8-a6fa5075e5a1?t=1636079764340> (last visited January 10, 2021).

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:

Indeterminate with respect to insurance premiums. A reduction in wind loss attributable to retrofitted tie-downs may be offset by wind loss attributable to carports and sunrooms not constructed to code, which FEMA has concluded as being the primary causes of damage to mobile homes from a wind event.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially section 215.559 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Banking and Insurance on January 12, 2022:

The committee substitute:

- Expands the list of projects which are eligible to receive funds allocated under the HLMP for retrofitting existing public hurricane facilities to include construction of new public hurricane facilities.

- Creates a recurring annual appropriation of \$2 million from Cat Fund investment income to the University of South Florida School of Risk Management and Insurance for the purposes of researching Florida's property insurance market.

B. Amendments:

None.

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



794936

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/14/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 11 - 15
and insert:

Section 1. Paragraph (b) of subsection (1), paragraph (b) of subsection (2), and subsection (7) of section 215.559, Florida Statutes, are amended to read:

215.559 Hurricane Loss Mitigation Program.—A Hurricane Loss Mitigation Program is established in the Division of Emergency Management.



794936

(1) The Legislature shall annually appropriate \$10 million of the moneys authorized for appropriation under s. 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the division for the purposes set forth in this section. Of the amount:

(b) Three million dollars in funds shall be used to construct or retrofit ~~existing~~ facilities used as public hurricane shelters. Each year the division shall prioritize the use of these funds for projects included in the annual report of the Shelter Development ~~Retrofit~~ Report prepared in accordance with s. 252.385(3). The division must give funding priority to projects in regional planning council regions that have shelter deficits and to projects that maximize the use of state funds.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete line 3
and insert:
Program; amending s. 215.559, F.S.; revising the use of certain funds from the Florida Hurricane Catastrophe Fund to also include construction of certain facilities; revising the title of a certain annual report; deleting



774500

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/14/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Between lines 72 and 73
insert:

(3) (a) Of moneys provided to the division in paragraph
(1) (a), 10 percent shall be allocated to the Florida
International University center dedicated to hurricane research.
The center shall develop a preliminary work plan approved by the
advisory council set forth in subsection (4) to eliminate the
state and local barriers to upgrading existing mobile homes and



774500

communities, research and develop a program for the recycling of existing older mobile homes, and support programs of research and development relating to hurricane loss reduction devices and techniques for site-built residences.

(b) Of moneys provided to the division in paragraph (1) (a), \$2 million shall be allocated to the University of South Florida School of Risk Management and Insurance for research of the property insurance market of this state. The school shall use publicly available data to analyze trends regarding, and to develop recommended policies and best practices for reducing, property insurance rates, Citizens Property Insurance Corporation policyholder counts, and property insurance litigation frequency. The school shall also analyze to what extent hurricane losses and rebuilding costs influence these trends.

The State University System also shall consult with the division and assist the division with the report required under subsection (6).

(4) Except for the programs set forth in subsection (3), the division shall develop the programs set forth in this section in consultation with an advisory council consisting of a representative designated by the Chief Financial Officer, a representative designated by the Florida Home Builders Association, a representative designated by the Florida Insurance Council, a representative designated by the Federation of Manufactured Home Owners, a representative designated by the Florida Association of Counties, a representative designated by the Florida Manufactured Housing Association, and a



774500

representative designated by the Florida Building Commission.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 11 - 12

and insert:

Section 1. Paragraph (b) of subsection (2), subsection (3),
and subsection (7) of section 215.559, Florida Statutes, are
amended, and subsection (4) of that section is reenacted, to
read:

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

And the title is amended as follows:

Delete lines 3 - 5

and insert:

Program; amending s. 215.559, F.S., and reenacting
subsection (4); deleting construction relating to
Citizens Property Insurance Corporation coverage
rates; requiring an allocation of moneys to the
University of South Florida for certain purposes;
delaying the future repeal



497424

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/14/2022	.	
	.	
	.	
	.	

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

Senate Substitute for Amendment (774500) (with title amendment)

Before line 11
insert:

Section 1. Paragraph (g) is added to subsection (7) of section 215.555, Florida Statutes, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(7) ADDITIONAL POWERS AND DUTIES.—

(g) Each fiscal year, the Legislature shall appropriate



497424

from the investment income of the Florida Hurricane Catastrophe
Fund \$2 million of the investment income based upon the most
recent fiscal year-end audited financial statements to the
University of South Florida School of Risk Management and
Insurance for the purpose of providing research into the
property insurance market of this state. The school shall use
publicly available data to analyze trends regarding, and to
develop recommended policies and best practices for reducing,
property insurance rates, Citizens Property Insurance
Corporation policyholder counts, and property insurance
litigation frequency. The school shall also analyze to what
extent hurricane losses and rebuilding costs influence these
trends. Moneys shall first be available for appropriation under
this paragraph in fiscal year 2022-2023. Moneys in excess of the
\$10 million specified in this paragraph may not be available for
appropriation under this paragraph if the State Board of
Administration finds that an appropriation of investment income
from the fund would jeopardize the actuarial soundness of the
fund.

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

And the title is amended as follows:

Delete lines 2 - 3

and insert:

An act relating to hurricane impact programs; amending
s. 215.555, F.S.; providing an annual appropriation
from the Florida Hurricane Catastrophe Fund to fund
specified research; specifying requirements and
exceptions; amending s. 215.559, F.S.; deleting

By Senator Hooper

16-00860-22

2022578__

A bill to be entitled

An act relating to the Hurricane Loss Mitigation Program; amending s. 215.559, F.S.; deleting construction relating to Citizens Property Insurance Corporation coverage rates; delaying the future repeal of the Hurricane Loss Mitigation Program; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) and subsection (7) of section 215.559, Florida Statutes, are amended to read:
215.559 Hurricane Loss Mitigation Program.—A Hurricane Loss Mitigation Program is established in the Division of Emergency Management.

(2)

(b)1. The Manufactured Housing and Mobile Home Mitigation and Enhancement Program is established. The program shall require the mitigation of damage to or the enhancement of homes for the areas of concern raised by the Department of Highway Safety and Motor Vehicles in the 2004-2005 Hurricane Reports on the effects of the 2004 and 2005 hurricanes on manufactured and mobile homes in this state. The mitigation or enhancement must include, but need not be limited to, problems associated with weakened trusses, studs, and other structural components caused by wood rot or termite damage; site-built additions; or tie-down systems and may also address any other issues deemed appropriate by Tallahassee Community College, the Federation of Manufactured Home Owners of Florida, Inc., the Florida Manufactured Housing

Page 1 of 3

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

16-00860-22

2022578__

Association, and the Department of Highway Safety and Motor Vehicles. The program shall include an education and outreach component to ensure that owners of manufactured and mobile homes are aware of the benefits of participation.

2. The program shall be a grant program that ensures that entire manufactured home communities and mobile home parks may be improved wherever practicable. The moneys appropriated for this program shall be distributed directly to Tallahassee Community College for the uses set forth under this subsection.

3. Upon evidence of completion of the program, the Citizens Property Insurance Corporation shall grant, on a pro rata basis, actuarially reasonable discounts, credits, or other rate differentials or appropriate reductions in deductibles for the properties of owners of manufactured homes or mobile homes on which fixtures or construction techniques that have been demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The discount on the premium must be applied to subsequent renewal premium amounts. Premiums of the Citizens Property Insurance Corporation must reflect the location of the home and the fact that the home has been installed in compliance with building codes adopted after Hurricane Andrew. ~~Rates resulting from the completion of the Manufactured Housing and Mobile Home Mitigation and Enhancement Program are not considered competitive rates for the purposes of s. 627.351(6)(d)1. and 2.~~

4. On or before January 1 of each year, Tallahassee Community College shall provide a report of activities under this subsection to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must

Page 2 of 3

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

16-00860-22 2022578

set forth the number of homes that have taken advantage of the program, the types of enhancements and improvements made to the manufactured or mobile homes and attachments to such homes, and whether there has been an increase in availability of insurance products to owners of manufactured or mobile homes.

Tallahassee Community College shall develop the programs set forth in this subsection in consultation with the Federation of Manufactured Home Owners of Florida, Inc., the Florida Manufactured Housing Association, and the Department of Highway Safety and Motor Vehicles. The moneys appropriated for the programs set forth in this subsection shall be distributed directly to Tallahassee Community College to be used as set forth in this subsection.

(7) This section is repealed June 30, 2032 ~~2022~~.

Section 2. This act shall take effect upon becoming a law.

The Florida Senate
APPEARANCE RECORD

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

Meeting Date 1/12/22
Committee Banking & Insurance

Name Nancy Stewart
Phone 850.385.7805

Address 1400 Village Sq Blvd Ste 3-156
City Tallahassee State FL Zip 32312
Email Nancy.Stewart@nancyblackstreet.com

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:

Federation of Manufactured Home Owners of Florida

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. 2020-2022 Joint Rules.pdf (flsenate.gov)



The Florida Senate

Committee Agenda Request

To: Senator Jim Boyd, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: November 15, 2021

I respectfully request that **Senate Bill #578**, relating to Hurricane Loss Mitigation Program, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a circular stamp or seal.

Senator Ed Hooper
Florida Senate, District 16

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 968

INTRODUCER: Senator Polsky

SUBJECT: Individual Retirement Accounts

DATE: January 12, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schrader	Knudson	BI	Favorable
2. _____	_____	JU	_____
3. _____	_____	RC	_____

I. Summary:

SB 968 clarifies that any interest in an individual retirement account (IRA) or individual retirement annuity received in a transfer incident to divorce remains exempt from creditor claims after the transfer is complete. As the bill clarifies, but does not modify, existing law or practice, the bill is remedial in nature and applies retroactively to all transfers made incident to divorce.

The bill is effective upon becoming a law.

II. Present Situation:

Asset Protections Available in Florida

A creditor can collect money owed by filing an action for a judgment in state court. A judgment is an order of the court creating an obligation, such as a debt. The creditor may then use that judgment to collect from the debtor, i.e., executing the judgement, using certain legal tools such as garnishing of wages and bank accounts and attaching liens to personal and real property. The Florida Constitution and Florida Statutes both contain exemptions to protect certain real and personal property of natural persons from forced sale by creditors. State constitutional exemptions, such as those for homestead property,¹ can only be modified through a proposed constitutional amendment that is subsequently approved by the electorate. Exemptions provided in Florida Statutes may be modified through the regular legislative process. Chapter 222, F.S., specifies the types of property that is exempt from the claims of creditors.

Section 222.21, F.S., provides that pension money and certain tax-exempt funds or accounts are exempt from legal processes, such as forced sale. Subsection (1) protects certain money received by any debtor as a pensioner of the United States. Subsection (2) protects any money or other

¹ See FLA. CONST. art. X, s. 4.

assets payable to an owner, a participant, or a beneficiary from, and any interest² therein of any owner, beneficiary, or participant if the fund or account meets certain qualifications. These funds or accounts are commonly known as qualified, tax-exempt retirement accounts, and must be:

- Maintained in accordance with a master plan, volume submitter plan, prototype plan, or any other plan or other governing instrument preapproved by the Internal Revenue Service (IRS) as exempt from taxation under certain sections of the Internal Revenue Code of 1986 (IRC), as amended, regarding qualified retirement plans,³ unless the exemption was overturned in a final, non-appealable, proceeding;
- Maintained in accordance with a plan or governing instrument determined by the IRS to be exempt from taxation under certain sections of the IRC regarding qualified retirement plans,⁴ unless such exemption was overturned in a final, non-appealable, proceeding; or
- Not maintained in accordance with one of the above-described plans or governing instruments, if the person claiming the exemption proves by a preponderance of the evidence that the fund or account is maintained in substantial compliance with the applicable sections regarding tax-exempt retirement accounts, or would have been in substantial compliance with the applicable requirements for exemption under those sections, but for the negligent or wrongful conduct of another person.

The fund or account need not be maintained in accordance with a plan or governing instrument covered by any part of the Employee Retirement Income Security Act (ERISA) to be exempt.⁵ The funds or accounts are only protected to the extent they are not otherwise subject to claims of an alternate payee under a qualified domestic relations order, or claims of a surviving spouse pursuant to an order determining elective share and contribution in accordance with ch. 732, F.S.

Paragraph (2)(c) of s. 222.21, F.S., provides that the exemption for such money, other assets, or interest in these qualified, tax-exempt retirement accounts survives the owner's death upon a direct transfer or other eligible rollover excluded from gross income under the IRC,⁶ such as, but not limited to, the direct transfer or eligible rollover to an inherited individual retirement account (IRA).⁷ This allows a beneficiary to enjoy the exemption upon transfer. Paragraph (2)(c) expressly states that it is intended to clarify existing law, be remedial in nature, and to apply retroactively to all inherited individual retirement accounts without regard to the date the account was created.

² Under Florida law, the word "interest," as used in statute providing exemption from creditors' claims for any interest of owner, beneficiary, or participant in enumerated tax-preferred funds or accounts, is a broad term encompassing many rights of a party, tangible, intangible, legal, and equitable. *In re Maddox*, 713 F.2d 1526, 1530 (11th Cir. 1983).

³ 26 U.S.C. ss. 401(a) (stock bonus, pension, and profit sharing plans), 403(a) and 403(b) (annuity plans), 408 (individual retirement accounts (IRAs)), 408A (Roth IRAs), 409 (tax credit employee stock ownership plans), 414 (provides definitions and special rules for certain plans, such as retirement plans for government and church employees), 457(b) (deferred compensation plans), or 501(a) (defining organizations exempt from taxation, including those defined in 401(a)).

⁴ *Id.*

⁵ Section 222.21(2)(b), F.S.

⁶ Section 222.21(2)(c), F.S.

⁷ See 26 U.S.C. s. 408(d)(3); pursuant to s. 222.21(2), F.S., individual retirement accounts, and interests therein, maintained in accordance with 26 U.S.C. s. 408 are exempted from legal processes, such as forced sale by creditors.

The specified tax-exempt retirement plans enumerated in subsection (2) are exempt from all legal proceedings, including bankruptcy, even though bankruptcy is a federal proceeding governed by the United States Bankruptcy Code (Bankruptcy Code).⁸

Transfer of Section 408 Retirement Accounts Incident to Divorce

Retirement accounts exempted from taxation by s. 408 of the IRC are exempted from legal processes, such as forced sale, by Florida law.⁹ Section 408 of the IRC contemplates individual retirement accounts (IRAs) and individual retirement annuities.¹⁰ An individual retirement account is a trust created or organized in the United States for the exclusive benefit of an individual, or his beneficiaries, of which the governing document meets certain requirements.¹¹ An individual retirement annuity is an annuity contract, or an endowment contract, issued by an insurance company which meets certain requirements.¹² An interest in an individual retirement account or individual retirement annuity may be transferred, but only upon the death or divorce of the original owner.¹³ The transfer of an interest in an individual retirement account or individual retirement annuity incident to divorce is not a taxable event.¹⁴ Effective upon such transfer, the interest in the individual retirement account or individual retirement annuity is treated as the account of the spouse.¹⁵

Exempted Property in Bankruptcy Proceedings

The Bankruptcy Code expressly recognizes exemptions provided under the state or local law of the domicile of the debtor.¹⁶ Florida is an opt-out state, meaning that when a Florida resident files for bankruptcy, Florida law provides the exemptions available to the debtor—not the Bankruptcy Code.¹⁷ Florida law contains a number of exemptions included in the Bankruptcy Code, such as IRAs and pensions, profit sharing, and retirement benefits.¹⁸ Florida also exempts all inherited IRA accounts from creditor claims.¹⁹ Likewise, the Bankruptcy Code exempts retirement funds in a fund or account exempt from taxation under most of the same sections of the IRC, such as those applicable to stock bonus, pension, and profit sharing plans, annuity plans, IRAs, and deferred compensation plans.²⁰

⁸ 11 U.S.C. s. 101, *et. seq.*; 11 U.S.C. s. 522(b)(3)(A).

⁹ Section 222.21(2), F.S.

¹⁰ 26 U.S.C. s. 408(a)-(c).

¹¹ *See* 26 U.S.C. s. 408(a), *et. seq.*

¹² 26 U.S.C. s. 408(b).

¹³ 26 U.S.C. s. 408(d).

¹⁴ 26 U.S.C. s. 408(d)(6).

¹⁵ *Id.*

¹⁶ 11 U.S.C. s. 522(b)(3)(A).

¹⁷ Section 222.20, F.S.

¹⁸ Section 222.21(2), F.S.

¹⁹ Section 222.21(2)(c), F.S.

²⁰ 11 U.S.C. s. 522(d)(12) exempts “retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under sections 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.”

Section 222.21(2), F.S., exempts qualified plans exempt from taxation under ss. 401(a), 403(a) and 403(b), 408, 408A, 414, 457(b), and 501(a) of the IRC. Unlike the Bankruptcy Code, Florida additionally exempts qualified tax credit employee stock ownership plans exempted from taxation under section 409 of the IRC.

Regarding the exemption for an IRA or an interest therein where such was awarded incident to a divorce, a 2018 bankruptcy court decision in the United States Bankruptcy Appellate Panel for the 8th Circuit, *In re Lerbakken*, 590 B.R. 895 (B.A.P. 8th Cir. 2018), may indicate a need to clarify Florida's exemption.

In *Lerbakken*, the 8th Circuit Bankruptcy Appellate Panel stated that two requirements must be satisfied in order for a debtor to claim funds as exempt retirement funds pursuant to the Bankruptcy Code:

- The amount must be retirement funds; and
- The retirement funds must be in an account that is exempt from taxation under one of the provisions of the IRC.²¹

The Bankruptcy Code does not define the term “retirement funds,” so the term is applied within its ordinary meaning: “sums of money set aside for the day an individual stops working.”²² In *Lerbakken*, the 8th Circuit Bankruptcy Appellate Panel held that funds held in 401K and IRA accounts awarded to a Chapter 7 debtor as part of a stipulated property settlement in a divorce proceeding were not “retirement funds” because while the debtor’s former spouse had saved funds in those accounts for a joint retirement, any interest the debtor held in those accounts resulted from a property settlement. However, it is notable that the ruling was an 8th Federal Circuit opinion on appeal from the United States Bankruptcy Court for the District of Minnesota. Thus, the *Lerbakken* Court’s ruling interpreting the meaning of “retirement funds” in would not be controlling in the 11th Circuit (of which Florida is a part).

The issue of whether an IRA is exempt from bankruptcy proceedings when awarded incident to a divorce proceeding has arisen in the 11th Circuit recently.²³ During the course of the proceedings, the United States Bankruptcy Court for the Middle District of Florida, Tampa Division, acknowledged that, although the authority to make the certification for appeal had shifted from Bankruptcy Court to the district court during the pendency of ruling on a motion for appeal, there did exist a “matter of public importance” on the IRA issue and “no controlling decision of the Eleventh Circuit or the Supreme Court exists.”²⁴ Further, the Bankruptcy Court acknowledges that “conflicting opinions from other jurisdictions arguably exist.”²⁵ Thus, the Bankruptcy Court had intended to certify the issue for appellate review.²⁶

²¹ 11 U.S.C. s. 522(d)(12).

²² *Clark v. Rameker*, 573 U.S. 122, 127 (2014).

²³ This case was dismissed without prejudice on upon the parties reaching settlement in the matter. *Carapella v. Glass*, No. 8:19-cv-3050-T-02 (M.D. Fla. Jan. 8, 2021). Thus, the Court did not reach a decision on the IRA issue.

²⁴ *In re Glass*, 613 B.R. 33, 41 (Bankr. M.D. Fla. 2020).

²⁵ *Id.* at 41.

²⁶ *Id.* at 34. Under 28 U.S.C. s. 158(d)(2)(A), the grounds for certification for direct review in a court of appeals are: (i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of Supreme Court of the United States, or involves a matter of public importance; (ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or (iii) an immediate appeal from the judgment, order, or decree may materially advance the progression of the case or proceeding in which the appeal is taken.

III. Effect of Proposed Changes:

Section 1 amends paragraph (2)(c) of s. 222.21, F.S., to clarify that any interest in any IRA or individual retirement annuity received in a transfer incident to divorce as described in s. 408(d)(6) of the Internal Revenue Code of 1986 (IRC), as amended, continues to be exempt from creditor claims after the transfer, regardless of the date the transfer was made.

To the extent s. 222.21(2)(a), F.S., exempts a transferee's interest in an IRA or individual retirement annuity upon a transfer incident to divorce pursuant to s. 408(d)(6) of the IRC, the bill clarifies current law, which exempts such interests from the claims of the transferee's creditors.

Existing law provides that s. 222.21(2)(c), F.S., is intended to clarify existing law, is remedial in nature, and shall have retroactive application. As a result, the provision of the bill will apply retroactively as well.

Section 2 provides that the act shall take effect 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:

Retroactive Application

Once a bill becomes law, it is presumed to apply only prospectively. The presumption against retroactive application may be rebutted by clear evidence of legislative intent.²⁷

To determine if the terms of a statute and the purpose of the enactment indicate retroactive application, a court may consider the language, structure, purpose, and legislative history of the enactment.²⁸

²⁷ *Florida Ins. Guar. Ass'n, Inc. v. Devon Neighborhood Ass'n, Inc.*, 67 So. 3d 187 (Fla. 2011).

²⁸ *Id.*

If the legislation clearly expresses an intent that the law apply retroactively, then the second inquiry is whether retroactive application is constitutionally permissible.²⁹ Even when the Legislature has clearly expressed its intention that the statute be given a retroactive application, courts must refuse to do so if it impairs vested rights, creates new obligations, imposes new penalties,³⁰ or impairs an obligation of contract.³¹ For example, ex post facto legislation, i.e., a law that expands criminal liability retroactively by either creating a new crime for past conduct or by increasing the penalty for past conduct, is forbidden by both the Florida Constitution and the United States Constitution. Statutes that do not alter vested rights but relate only to remedies or procedure may be applied retroactively.³²

V. 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.

VI. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

²⁹ *Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873 (Fla. 2010); *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So. 2d 55 (Fla. 1995).

³⁰ *Id.*

³¹ *Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873 (Fla. 2010).

³² *Metropolitan Dade County v. Chase Federal Housing Corporation*, 737 So. 2d 494 (Fla. 1999).

C. Government Sector Impact:

None.

VII. Technical Deficiencies:

None.

VIII. Related Issues:

None.

IX. Statutes Affected:

This bill substantially amends section 222.21, Florida Statutes.

X. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Polsky

29-00017-22

2022968__

A bill to be entitled

An act relating to individual retirement accounts; amending s. 222.21, F.S.; specifying that certain interests received by a transferee after a divorce are exempt from claims of creditors upon being awarded to or received by the transferee; specifying that such interests remain exempt; providing retroactive applicability; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2) of section 222.21, Florida Statutes, is amended to read:

222.21 Exemption of pension money and certain tax-exempt funds or accounts from legal processes.—

(2)

(c) Any money or other assets or any interest in any fund or account that is exempt from claims of creditors of the owner, beneficiary, or participant under paragraph (a) does not cease to be exempt after the owner's death by reason of a direct transfer or eligible rollover that is excluded from gross income under the Internal Revenue Code of 1986, including, but not limited to, a direct transfer or eligible rollover to an inherited individual retirement account as defined in s. 408(d)(3) of the Internal Revenue Code of 1986, as amended. An interest in any fund or account awarded or received in a transfer incident to divorce described in s. 408(d)(6) of the Internal Revenue Code of 1986, as amended, is exempt upon the interest being awarded or received and continues to be exempt

Page 1 of 2

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

29-00017-22

2022968__

thereafter. This paragraph is intended to clarify existing law, is remedial in nature, and shall have retroactive application to all inherited individual retirement accounts and to each transfer incident to divorce without regard to the date an account was created or the transfer was made.

Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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

1/12/22

Meeting Date

Banking and Insurance

Committee

Name

Martha Edenfield

Phone

850-999-4100

Address

106 E. College Ave # 1200

Email

medenfield@deanmead.com

Street

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:

The Real Property, Probate and Trust Law Section of the Florida Bar

☐

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

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

DUPLICATE

968

Bill Number or Topic

Amendment Barcode (if applicable)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture
Appropriations Subcommittee on Education
Community Affairs
Education
Ethics and Elections
Judiciary

SENATOR TINA SCOTT POLSKY

29th District

November 30, 2021

Chairman Jim Boyd
Committee on Banking and Insurance
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Boyd,

I respectfully request that you place SB 968, relating to Individual Retirement Accounts, on the agenda of the Committee on Banking and Insurance at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Kindest Regards,

A handwritten signature in dark ink, appearing to read "Tina S. Polsky", with a stylized flourish at the end.

Senator Tina S. Polsky
Florida Senate, District 29

cc: James Knudson, Staff Director
Amaura Canty, Administrative Assistant

REPLY TO:

- ☐ 5301 North Federal Highway, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- ☐ 222 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1058

INTRODUCER: Senator Hutson

SUBJECT: Property Insurer Reimbursements

DATE: January 12, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 1058 authorizes the State Board of Administration (SBA) to provide Florida Hurricane Catastrophe Fund (Cat Fund) coverage to authorized insurers or Citizens Property Insurance Corporation (Citizens) for the policies of unsound insurers that Citizens or the authorized insurer assumes or otherwise provides coverage. The authorized insurer or Citizens may obtain Cat Fund coverage for such policies either through the authorized insurer's or Citizens' reimbursement contract with the Cat Fund or by accepting an assignment of the unsound insurer's contract with the Fund.

The bill defines "unsound insurer" to mean an insurer determined by the Office of Insurance Regulation to be in unsound condition as defined s. 624.80(2), F.S., or placed in receivership under ch. 631, F.S.

Under current law, these options for obtaining Cat Fund coverage are only available to Citizens, and only apply to the policies of liquidated insurers.

The bill takes effect July 1, 2022.

II. Present Situation:

Insurer Insolvency

Federal law specifies that insurance companies cannot file for bankruptcy and are instead subject to state laws regarding receivership.¹ Insurers are either "rehabilitated" or "liquidated" by the

¹ The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. § 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. See 15 U.S.C. § 1012 (McCarran-Ferguson Act).

state. Typically, insurers are put into liquidation when the company is or is about to become insolvent;² whereas, insurers are placed in rehabilitation³ for numerous reasons, one of which is that the insurer is impaired or failed to comply with an order of the Office of Insurance Regulation (OIR) to address an impairment of capital or surplus or both. The goal of rehabilitation is to return to solvency. The goal of liquidation, however, is to liquidate the business of the insurer and use the proceeds to pay off the company's debts and outstanding insurance claims.

In Florida, the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS) is responsible for rehabilitating or liquidating insurance companies. This process involves the initiation of a delinquency proceeding⁴ and the placement of an insurer under the control of the DFS as the receiver. DFS as receiver has many responsibilities related to outstanding debts and insurance claims, which include collecting all debts and money due to the insurer for the good of policyholders and creditors alike, evaluating and paying claims with available assets, and assisting in the transition of policyholders to other insurance coverage.⁵

Florida Hurricane Catastrophe Fund

The Florida Hurricane Catastrophe Fund (FHCF) is a tax-exempt⁶ trust fund created by the Legislature in 1993⁷ as a form of mandatory reinsurance for residential property losses. The FHCF is administered by the State Board of Administration (SBA)⁸ and reimburses property insurers for a selected percentage (45, 75, or 90 percent)⁹ of hurricane losses to residential property above the insurer's retention (deductible). As a condition of doing business in Florida, residential property insurers are required to enter into reimbursement contracts with FHCF.¹⁰ The purpose of the FHCF is to protect and advance the state's interest in maintaining insurance capacity in Florida by providing reimbursements to insurers for a portion of their catastrophic hurricane losses.

FHCF Mandatory Coverage

All insurers admitted to do business in this state writing residential property insurance that includes wind coverage must buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF.¹¹ The FHCF is authorized by statute to sell \$17 billion of mandatory layer coverage.¹² Each insurer that purchases coverage may receive up to its proportional share of the \$17 billion mandatory layer of coverage based upon the insurer's share

² Section 631.061, F.S.

³ Section 631.051, F.S.

⁴ Section 631.031, F.S.

⁵ Florida Department of Financial Services, *Overview of Liquidation under Chapter 631, Florida Statutes*, <https://www.myfloridacfo.com/division/receiver/guide-to-the-receivership-process/liquidationsummary> (last visited December 29, 2021).

⁶ Section 215.555(1)(f), F.S.

⁷ Chapter 93-409, L.O.F.

⁸ Section 215.555(3), F.S.

⁹ Section 215.555(2)(e), F.S.

¹⁰ Section 215.555(4)(a), F.S.

¹¹ *Id.*

¹² Section 215.555(4)(c)1., F.S.

of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. Each insurer may select a reimbursement contract wherein the FHCF promises to reimburse the insurer for 45 percent, 75 percent, or 90 percent of covered losses, plus 10 percent¹³ of the reimbursed losses for loss adjustment expenses.¹⁴

FHCF Premiums

The FHCF must charge insurers the actuarially indicated premium¹⁵ for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.¹⁶ The actuarially indicated premium is an amount that is adequate to pay current and future obligations and expenses of the fund. In practice, each insurer pays the FHCF annual reimbursement premiums that are proportionate to each insurer's share of the FHCF's risk exposure. The cost of FHCF coverage is generally lower than the cost of private reinsurance because the fund is a tax-exempt non-profit corporation and does not charge a risk load as it relates to overhead and operating expenses incurred by other private insurers.¹⁷

Assignment of Liquidated Insurer's FHCF Coverage

Citizens Property Insurance Corporation may assume or otherwise provide coverage for policies of residential property insurers placed in liquidation under ch. 631, F.S. Citizens Property Insurance Corporation may subsequently obtain FHCF coverage for the newly assumed policies either under its existing FHCF contract or by way of assignment of the liquidated insurer's FHCF contract, as mutually agreed upon between Citizens Property Insurance Corporation and SBA.¹⁸ In the case of an assignment, FHCF applies its contract to the newly assigned policies and treats Citizens Property Insurance Corporation as though it were the liquidated insurer for the remaining term of the contract.¹⁹

Florida law is otherwise silent with respect to the assignability of the liquidated insurer's FHCF contract to an authorized insurer rather than to Citizens Property Insurance Corporation. The absence of legislative authority for SBA to approve the assignment of a liquidated insurer's FHCF contract to an authorized insurer removes one regulatory tool for reversing the increasing assumption of policies by Citizens Property Insurance Corporation.

Citizens Property Insurance Corporation (Citizens)

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

¹³ Section 215.555(4)(b), F.S.

¹⁴ Loss adjustment expenses are costs incurred by insurers when investigating, adjusting, and processing a claim.

¹⁵ Section 215.555(2)(a), F.S.

¹⁶ See State Board of Administration of Florida, *Florida Commission on Hurricane Loss Methodology*, <https://www.sbafla.com/method/> (last visited December 29, 2021).

¹⁷ State Board of Administration of Florida, *Florida Hurricane Catastrophe Fund, 2020 Annual Report*, https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20210614_2020_FHCFAnnualReport.pdf?ver=2021-06-14-123243-403 (last visited December 29, 2021).

¹⁸ Section 251.555(5)(e), F.S.

¹⁹ *Id.*

voluntary admitted market.²⁰ Citizens is not a private insurance company.²¹ Citizens was statutorily created in 2002 when the 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). Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight-member Board of Governors²² that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board. Citizens is subject to regulation by the OIR.

Citizens offers property insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surplus and deficits.²³ Assets may not be commingled or used to fund losses in another account.²⁴

- **The Personal Lines Account (PLA)** offers personal lines residential policies that provide comprehensive, multiperil 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 homeowners, dwellings, tenants, and condominium unit owner's policies.
- **The Commercial Lines Account (CLA)** offers commercial lines residential and nonresidential 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 within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes nonresidential commercial policies covering business properties.
- **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 multiperil policies.²⁵

Citizens Insurance Rates

Citizens' rates for coverage are required to be actuarially sound and, except as otherwise provided in s. 627.351, F.S., are subject to the rate standards for property and casualty insurance in s. 627.062, F.S.²⁶ From 2007 until 2020, Citizens rates were frozen by statute at the level that had been established in 2006. In 2010, the Legislature established a "glide path" to impose

²⁰ Admitted market means insurance companies licensed to transact insurance in Florida.

²¹ Section 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the OIR.

²² The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives each appoint two members.

²³ The Personal Lines Account and the Commercial Lines Account are combined for credit and Florida Hurricane Catastrophe Fund coverage.

²⁴ Section 627.351(6)(b)2b., F.S.

²⁵ In August of 2007, Citizens began offering personal and commercial residential multiperil policies in this limited eligibility area. Additionally, near the end of 2008, Citizens began offering commercial non-residential multiperil policies in this account.

²⁶ Among the factors OIR considers when reviewing a rate filing is the degree of competition among the insurers for the risk insured, per s. 627.062(3)(b), F.S.

annual rate increases up to an actuarially sound level. The Legislature subsequently increased the glide path in 2021. Citizens must implement an annual rate increase which, except for sinkhole coverage, does not exceed a 10 percent cap above the previous year for any individual policyholder, adjusted for coverage changes and surcharges, which increases by 1 percent annually until the cap reaches 15 percent in 2026.²⁷

Citizens Eligibility

Under current law, an applicant for residential insurance cannot buy insurance in Citizens if an admitted insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 20 percent or more.²⁸ In addition, the coverage offered by the private insurer must be comparable to Citizens' coverage.

Current Citizens policyholders cannot renew a Citizens insurance policy if an insurer in the private market offers to insure the property at a premium equal to or less than the Citizens' renewal premium. The insurance from the private market insurer must be comparable to the insurance from Citizens in order for the renewal premium eligibility requirement to apply.²⁹

The Legislature established the Citizens policyholder eligibility clearinghouse program 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. For new policies applying with Citizens, any private market offer through the clearinghouse for similar coverage that is not greater than 20 percent of Citizens' rate makes the policy ineligible for coverage with Citizens. Additionally, a renewal Citizens policy that receives any private market offer through the clearinghouse for similar coverage equal to or less than Citizens' rate is ineligible for coverage with Citizens.

Citizens Options to Maintain FHCF Coverage for Liquidated Insurers' Policies

Citizens may assume or otherwise provide coverage for policies of residential property insurers placed in liquidation under ch. 631, F.S. Citizens may subsequently obtain FHCF coverage for the newly assumed policies either under its existing FHCF contract or by way of assignment of the liquidated insurer's FHCF contract, as mutually agreed upon between Citizens and SBA.³¹ In the case of an assignment, FHCF applies its contract to the newly assigned policies and treats Citizens as though it were the liquidated insurer for the remaining term of the contract.³²

For FHCF coverage purposes, policies assumed under Citizens' existing FHCF contract are treated as having been in effect since June 30 of that calendar year.³³ However, for policies

²⁷ Section 627.351(6)(n)5., F.S.

²⁸ Section 627.351(6)(c)5., F.S.

²⁹ Section 627.351(6)(c)5., F.S.

³⁰ Section 10, ch. 2013-60, L.O.F.

³¹ Section 251.555(5)(e), F.S.

³² *Id.*

³³ *Id.*

assigned to Citizens, Citizens may not obtain FHCF under its existing FHCF but rather accept assignment of the liquidated insurer's FHCF contract.³⁴

III. Effect of Proposed Changes:

Section 1 amends s. 215.555, F.S., governing the FHCF, to define “unsound insurer” to mean an insurer determined by OIR to be in unsound condition as defined in s. 624.80(2), F.S., or placed in receivership under ch. 631, F.S.,

Section 624.80(2), F.S., defines “unsound condition” to mean that OIR has determined that one of more of the following conditions exist with respect to the insurer:

- The insurer's required surplus, capital, or capital stock is impaired to an extent prohibited by law;
- The insurer continues to write new business when it has not maintained the required surplus or capital;
- The insurer attempts to dissolve or liquidate without first having made provisions, satisfactory to OIR, for liabilities arising from insurance policies issued by the insurer; or
- The meets one or more of the grounds in s. 631.051, F.S., related to rehabilitation, for the appointment of DFS as receiver.

Chapter 631 governs receivership for purposes of rehabilitation and liquidation.

The bill authorizes the SBA to provide Cat Fund coverage to authorized insurers or Citizens for the policies of unsound insurers that Citizens or the authorized insurer assumes or otherwise provides coverage, provided the conditions are mutually agreed upon between the authorized insurer or Citizens and SBA. The authorized insurer or Citizens may seek to obtain FHCF coverage for the transferred policies under its existing FHCF contract or by accepting an assignment of the unsound insurer's FHCF contract.

The bill clarifies the authorized insurer or Citizens may only accept an assignment of the unsound insurer's FHCF contract if a covered event occurs before the policies' effective transfer date.

The bill clarifies FHCF's right to receive premium due under the unsound insurer's FHCF contract.

Section 2 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁴ *Id.*

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:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 215.555 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.



518482

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/12/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 68 and 69
insert:

Section 2. Paragraph (n) of subsection (6) of section
627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(n)1. Rates for coverage provided by the corporation must
be actuarially sound and subject to s. 627.062, except as



518482

otherwise provided in this paragraph. 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



518482

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. Eleven percent for 2022.
- b. Twelve percent for 2023.
- c. Thirteen percent for 2024.
- d. Fourteen percent for 2025.
- e. 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 subparagraph 5. 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 for each commercial and personal line of business the corporation writes.

8. Rates for coverage provided by the corporation for policies assumed from unsound insurers as defined in s. 215.555(2) (p) may not be discounted below the rates established by the corporation for other policies pursuant to this paragraph at the time of the transfer and may not be reduced below the rate for the policy at the time the corporation assumed the policy.

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

And the title is amended as follows:

Delete lines 2 - 8



518482

69 and insert:

70 An act relating to unsound insurers; amending s.
71 215.555, F.S.; defining the term "unsound insurer";
72 revising requirements for coverage under the Florida
73 Hurricane Catastrophe Fund of certain policies assumed
74 by authorized insurers or the Citizens Property
75 Insurance Corporation; providing construction;
76 amending s. 627.351, F.S.; prohibiting the corporation
77 from discounting or reducing rates for policies
78 assumed from unsound insurers; providing an effective
79 date.



116880

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
01/12/2022	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (518482) (with title amendment)

Delete line 64
and insert:
policy until the policy's third renewal.

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

And the title is amended as follows:

Delete line 78



116880

11 and insert:
12 assumed from unsound insurers for a specified number
13 of renewals; providing an effective

By Senator Hutson

7-00836B-22

20221058__

A bill to be entitled

An act relating to property insurer reimbursements; amending s. 215.555, F.S.; defining the term "unsound insurer"; revising requirements for coverage under the Florida Hurricane Catastrophe Fund of certain policies assumed by authorized insurers or the Citizens Property Insurance Corporation; providing construction; providing an effective date.

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

Section 1. Paragraph (e) of subsection (5) of section 215.555, Florida Statutes, is amended, and paragraph (p) is added to subsection (2) of that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(2) DEFINITIONS.—As used in this section:

(p) "Unsound insurer" means an insurer determined by the Office of Insurance Regulation to be in unsound condition as defined in s. 624.80(2) or an insurer placed in receivership under chapter 631.

(5) REIMBURSEMENT PREMIUMS.—

(e) 1. If an authorized insurer or the Citizens Property Insurance Corporation assumes or otherwise provides coverage for policies of an unsound insurer an insurer placed in liquidation under chapter 631 pursuant to s. 627.351(6), the authorized insurer or the Citizens Property Insurance Corporation may, pursuant to conditions mutually agreed to between the authorized insurer or the Citizens Property Insurance Corporation and the State Board of Administration, seek to obtain coverage for such

7-00836B-22

20221058__

policies under its contract with the fund or accept an assignment of the ~~unsound liquidated~~ insurer's contract with the fund. However, if a covered event has occurred before the effective date of the transfer of the policies, the authorized insurer or the Citizens Property Insurance Corporation may only obtain coverage for such policies through an assignment as provided in subparagraph 3.

2. If an authorized insurer or the Citizens Property Insurance Corporation assumes policies from an unsound insurer and elects to cover these policies under its the corporation's contract with the fund, it shall notify the board of its insured values with respect to such policies within a specified time mutually agreed to between the authorized insurer or the Citizens Property Insurance Corporation and the board, after such assumption or other coverage transaction, and the fund shall treat such policies as having been in effect as of June 30 of that year.

3. If an authorized insurer or the Citizens Property Insurance Corporation accepts in the event of an assignment of an unsound insurer's contract, the fund shall apply the unsound insurer's that contract to such policies and treat the authorized insurer or the Citizens Property Insurance Corporation as if it the corporation were the unsound liquidated insurer for the remaining term of the contract, with and the corporation shall have all rights and duties of the unsound liquidated insurer beginning on the date it provides coverage for such policies. This subparagraph may not be construed to limit the fund's right to receive the premium due under the unsound insurer's contract, but the corporation is not subject

7-00836B-22

20221058__

59 ~~to any preexisting rights, liabilities, or duties of the~~
60 ~~liquidated insurer. The assignment, including any unresolved~~
61 ~~issues between the liquidated insurer and Citizens Property~~
62 ~~Insurance Corporation under the contract, shall be provided for~~
63 ~~in the liquidation order or otherwise determined by the court.~~
64 ~~However, if a covered event occurs before the effective date of~~
65 ~~the assignment, the corporation may not obtain coverage for such~~
66 ~~policies under its contract with the fund and shall accept an~~
67 ~~assignment of the liquidated insurer's contract as provided in~~
68 ~~this paragraph.~~

69 Section 2. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

SB 1058

1/12/2022

Meeting Date

Banking & Ins

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Paul Handerman

Phone

561 704 0428

Address

120 N. Monroe Street

Street

Tallahassee

FL

32301

City

State

Zip

Email

paul@ramboconsulting.com

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:

FAIR



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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

1/13

Meeting Date

Banking & Insurance

Committee

1058

Bill Number or Topic

Amendment Barcode (if applicable)

Name Austin Stowers

Phone 850-413-5939

Address PL 27, The Capitol

Street

Email Austin.Stowers@my.floridaxf.com

Tallahassee

City

FL

State

32399

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:

Department of Financial Services

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. [2020-2022 Joint Rules.pdf \(flisenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/22

Meeting Date

B + I

Committee

1058

Bill Number or Topic

Amendment Barcode (if applicable)

Name Grant Phillips

Phone _____

Address 200 E Gaines St.
Street

Email grant.phillips@flor.com

Tallah
City

FL
State

32394
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Office of Insurance
Regulation

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

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

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

The Florida Senate

APPEARANCE RECORD

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

1/12/2022

Meeting Date

Banking + INS

Committee

SB 1058

Bill Number or Topic

518482

Amendment Barcode (if applicable)

Name

Paul Handman

Phone

561 704 0428

Address

120 N. Monroe Street

Street

Email

Paul@RomboConsulting.com

Tallahassee FL

City

State

32301

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:

FAIR



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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

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 7, 2022

I respectfully request that **Senate Bill #1058**, relating to Property Insurer Reimbursements, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in black ink, reading "Travis J. Hutson". The signature is written in a cursive style with a long horizontal line extending from the end.

Senator Travis Hutson
Florida Senate, District 7

CourtSmart Tag Report

Room: KB 412
Caption: Senate Banking and Insurance Committee

Case No.: -

Type:
Judge:

Started: 1/12/2022 9:30:45 AM

Ends: 1/12/2022 10:13:07 AM

Length: 00:42:23

9:30:47 AM Good morning - please call the roll, Amaura
9:31:06 AM roll call
9:31:16 AM a quorum is present
9:32:01 AM Sen. Hutson is recognized to present SB 1058
9:32:58 AM Are there any questions on the bill?
9:33:06 AM there's a late-filed bill by Sen. Brandes
9:33:23 AM Sen. Brandes is recognized
9:34:13 AM Chair asks for questions
9:34:43 AM Sen. Rouson is recognized for a question
9:35:24 AM no further questions on amendment
9:35:34 AM there's an amendment to the amendment
9:36:17 AM seeing no questions, w/o objection, the amendment to the amendment passes
9:37:01 AM Mr. Paul Handerhan waives in support
9:37:40 AM debate from Sen. Broxson
9:38:16 AM Question from Sen. Broxson
9:39:16 AM Sen. Brandes is recognized
9:40:22 AM Sen. Hutson discusses the amendment, asks Sen. Brandes to withdraw it
9:40:23 AM Sen. Brandes withdraws his amendment
9:40:39 AM Austin Stowers w/ Dept. of Financial Services waives in support
9:40:49 AM Paul Handerhan waives in support of bill
9:41:03 AM Mr. Hill waives in support
9:41:11 AM Sen. Hutson closes on SB 1058
9:41:40 AM CS/SB 1058 passes
9:41:49 AM Sen. Brodeur recognized for SB 486
9:42:32 AM Sen. Tadeo has a question about fees
9:43:01 AM no further questions
9:43:19 AM Samuel Armes (w/ FBBA) speaks in support
9:44:17 AM Jason Holloway speaks in support
9:45:04 AM OFR Commissioner Russ Weigel waives in support
9:45:25 AM Sen. Brandes in debate
9:45:39 AM Sen. Brodeur closes
9:46:11 AM SB 486 passes
9:46:36 AM Sen. Polsky introduces SB 968
9:47:17 AM no questions
9:47:28 AM no debate
9:47:33 AM Chair recognizes Sen. Polsky to close
9:47:43 AM SB 968 passes
9:48:10 AM Martha Edenfield is recognized as having waived in support after the fact
9:49:11 AM Sen. Hooper and Sen. Baxley are en route
9:49:24 AM we'll be in a short recess
9:49:36 AM Recording Paused
9:49:54 AM Recording Resumed
9:50:04 AM we are back in order
9:50:08 AM Sen. Baxley is recognized to explain SB 498
9:50:20 AM Sen. Baxley explains the Strike All amendment
9:52:37 AM no questions on amendment
9:52:46 AM no debate
9:52:52 AM show amendment adopted
9:52:59 AM Sen. Brandes asks a question about total costs
9:54:04 AM Sen. Baxley responds
9:54:48 AM \$1.298 million per year is the cost, per staff
9:55:07 AM no questions

9:55:12 AM Laura & Joey Schofield speak for the bill
9:56:24 AM Tina Stern waiving in support
9:56:47 AM Theresa Bulger waives in support
9:56:55 AM Damaris Allen waives in support
9:57:06 AM Sen. Brandes debates
9:58:05 AM Sen. Stewart debates
9:58:46 AM Sen. Baxley waives close
9:59:12 AM SB 498 passes
9:59:33 AM Sen. Hooper's recognized to explain SB 578
10:00:54 AM Sen. Hooper discusses amendment - barcode 794936
10:01:41 AM w/o objection, the amendment's adopted
10:01:49 AM 2 late-filed amendments
10:02:03 AM Chair allows amendments to heard without objection
10:03:08 AM the substitute amendment is heard first
10:03:10 AM Sen. Brandes explains it
10:03:30 AM Sen. Stewart has question on amendment
10:05:57 AM Sen. Stewart has a follow-up question
10:06:48 AM Sen. Broxson has a question
10:08:16 AM Sen. Brandes closes on amendment
10:09:54 AM substitute amendment is adopted
10:10:07 AM Nancy Stewart, representing the Federation of Manufactured Home Owners of Fla., speaks in favor of bill
as amended
10:10:23 AM Nancy Stewart thanks Sen. Brandes for his amendment
10:10:50 AM no other speakers
10:10:56 AM Sen. Hooper closes on bill
10:12:02 AM SB 578 as amended passes
10:12:30 AM Sen. Gruters wants to be shown as having voted on SB 1058 favorably
10:12:49 AM Sen. Stewart moves we adjourn