Tab 1	**CS/SB 326** by **JU, Burgess;** Identical to CS/H 00131 Curators of Estates

Tab 2	**SB 598** by **Truenow;** Compare to CS/H 01231 Funeral, Cemetery, and Consumer Services

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Tab 3	**SB 632** by **DiCeglie;** Identical to H 00585 Transportation Network Company, Driver, and Vehicle Owner Insurance

Tab 4	**CS/SB 786** by **JU, Berman;** Similar to H 00895 Trusts

Tab 5	**SB 1110** by **Truenow (CO-INTRODUCERS) Smith;** Similar to H 01301 Coverage for Orthotics and Prosthetics Services

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Tab 6	**SB 1256** by **Grall;** Identical to H 01209 Pharmacy Audits

Tab 7	**SB 1380** by **Martin;** Similar to H 01307 Unauthorized Aliens

Tab 8	**SB 1588** by **Gruters;** Compare to CS/H 01311 Legal Tender

Tab 9	**SPB 7042** by **BI;** Legal Tender

Tab 10	**SPB 7044** by **BI;** Public Records/Custodians of Gold Coin and Silver Coin

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Gruters, Chair
Senator Sharief, Vice Chair

MEETING DATE: Wednesday, February 11, 2026
TIME: 9:00—11:30 a.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Gruters, Chair; Senator Sharief, Vice Chair; Senators Boyd, Burton, Hooper, Martin, Osgood, Passidomo, Pizzo, and Truenow

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 326** Judiciary / Burgess (Identical CS/H 131)	Curators of Estates; Revising the authorization for a court to appoint a curator of estates; revising bond requirements for a curator of estates; clarifying who may subject a curator of estates to removal and surcharge; authorizing the court to require more frequent reporting or additional documents under certain circumstances, etc. JU 02/03/2026 Fav/CS BI 02/11/2026 RC	
2	**SB 598** Truenow (Compare CS/H 1231)	Funeral, Cemetery, and Consumer Services; Prohibiting a licensee of funeral or cemetery services from entering into certain contracts, agreements, or arrangements; limiting the total liability for damages for certain civil actions against a person or company licensed under ch. 497, F.S.; deleting an exception to the educational requirements for an applicant seeking licensure to be a funeral director; authorizing a licensee or a licensed facility to dispose of human remains in a specified manner if the legally authorized person of the decedent fails, neglects, or refuses to direct the disposition, etc. BI 02/11/2026 AEG FP	
3	**SB 632** DiCeglie (Identical H 585)	Transportation Network Company, Driver, and Vehicle Owner Insurance; Revising automobile insurance requirements for transportation network companies, transportation network company drivers, and transportation network company vehicle owners, etc. BI 01/13/2026 Temporarily Postponed BI 02/11/2026 TR RC	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 786** Judiciary / Berman (Similar H 895)	Trusts; Authorizing a trustee to obtain a settlement of his or her accounts and be discharged under certain circumstances; requiring a trustee seeking settlement and discharge to send a trust disclosure document to specified persons; providing that a trustee is discharged upon completion of distributions or transfers if no timely written objections are received and is discharged from all liability and claims arising out of any matter disclosed in the trust disclosure document, etc. JU 02/03/2026 Fav/CS BI 02/11/2026 RC	
5	**SB 1110** Truenow (Similar H 1301)	Coverage for Orthotics and Prosthetics Services; Authorizing the Agency for Health Care Administration to authorize and pay for specified orthotics and prosthetics services for Medicaid recipients; requiring individual health insurance policies; group, blanket, and franchise health insurance policies; and health maintenance contracts, respectively, to provide coverage for specified orthotics and prosthetics services; prohibiting health insurers and health maintenance organizations from denying claims under certain circumstances, etc. BI 02/11/2026 AHS AP	
6	**SB 1256** Grall (Identical H 1209)	Pharmacy Audits; Revising requirements for audits of licensed pharmacies conducted by or on behalf of pharmacy benefit plans or programs; revising audit procedures, documentation requirements, reporting and appeal requirements, and recoupment limits and procedures; authorizing the Office of Insurance Regulation to investigate complaints of violations, issue cease and desist orders, impose fines and other administrative penalties, order restitution for improper recoupments, prohibit any person or entity from conducting audits for a specified timeframe upon certain findings, and suspend or revoke a pharmacy benefit manager's registration under certain circumstances, etc. BI 02/11/2026 AEG RC	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**SB 1380** Martin (Similar H 1307, Compare S 1542)	Unauthorized Aliens; Prohibiting the Department of Financial Services from issuing a license or certification to unauthorized aliens; authorizing a county to require a borrower to provide proof of being lawfully present in the United States; authorizing the Division of Risk Management to approve or deny claims relating to a minor who is an unauthorized alien; requiring that certain procedures, instruction, and testing be conducted in English; prohibiting certain entities and corporations from providing down payment assistance to unauthorized aliens, etc. BI 02/11/2026 AP RC	
8	**SB 1588** Gruters (Compare CS/H 1311)	Legal Tender; Revising the definitions of the terms “gold coin” and “silver coin”; revising requirements for gold coin and silver coin recognized as legal tender; deleting a provision regarding examination of certain applicants; revising prohibitions relating to money services businesses; revising license application requirements for certain applicants, etc. BI 02/11/2026 AEG RC	
	Consideration of proposed bill:		
9	**SPB 7042**	Legal Tender; (PRELIMINARY DRAFT) providing legislative intent, etc. **(Preliminary Draft Available - final draft will be made available at least 24 hours prior to the meeting)**	
	Consideration of proposed bill:		
10	**SPB 7044**	Public Records; (PRELIMINARY DRAFT) providing legislative intent, etc. **(Preliminary Draft Available - final draft will be made available at least 24 hours prior to the meeting)**	
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 326
INTRODUCER:	Judiciary Committee and Senator Burgess
SUBJECT:	Curators of Estates
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	**Fav/CS**
2.	Moody	Knudson	BI	**Pre-meeting**
3.			RC	

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 326 amends s. 733.501, F.S., regarding curators of estates, to expand the role of curators in probate proceedings. A curator is a person appointed by the court for a limited time to protect the interests of a decedent's estate when a personal representative has not yet been appointed or must be replaced.

Specifically, the bill:

- Increases the number of situations when a court may appoint a curator and gives the court greater discretion regarding the giving of notice.
- Requires curators, except for banks and trust companies serving as curators, to post a reasonable bond unless waived by the court.
- Requires curators to file reports with the court detailing their actions taken in estate management, but only when the court deems it necessary.

The bill takes effect July 1, 2026.

II. Present Situation:

The Florida Probate Code ("Probate Code")[1] outlines the state's probate process, which is the court-supervised process[2] for identifying and gathering a decedent's assets, paying the decedent's debts, and distributing the decedent's remaining assets to his or her beneficiaries.[3] The probate process is also known as "estate administration."[4] Whenever a decedent dies leaving a valid will,[5] estate administration generally proceeds in accordance with the will's terms, with estate assets being distributed to the named beneficiaries;[6] however, where a decedent dies intestate, which means the decedent died and did not leave a valid will, asset distribution generally occurs by operation of Florida's intestate succession laws.[7]

Personal Representatives

Regardless of whether a decedent had a will or died intestate, when an estate is probated, the court appoints a personal representative[8] to oversee the estate's administration and grants that person letters of administration.[9] A personal representative's primary purpose is to ensure that the administration of the decedent's estate proceeds in accordance with the decedent's wishes (as outlined in a will) or, if there is no will, in accordance with state law; however, Florida law imposes numerous other, specific duties and obligations on personal representatives.

Qualifications

In determining who may serve as a personal representative for a particular estate, Florida law establishes an order of preference that generally must be observed, as follows:

- In testate estates (i.e. where there is a will):
  - The personal representative named in the will.
  - The person selected by a majority in interest of the persons entitled to the estate.
  - A devisee under the will (or the most qualified of such devisees, as chosen by the court, if there is more than one).[10]
- In intestate estates (i.e. where there is no will):
  - The surviving spouse.

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[1] Chapters 731-735, F.S.; *see also* s. 731.005, F.S. (providing the short title).
[2] In Florida, the circuit courts have jurisdiction over probate proceedings. Office of the State Courts Administrator, *Trial Courts-Circuit,* https://www.flcourts.gov/Florida-Courts/Trial-Courts-Circuit (last visited Jan. 28, 2026).
[3] "Beneficiary" means an heir at law in an intestate estate and a devisee in a testate estate. Section 731.201(2), F.S. Note that probate is not initiated in every circumstance in which a person dies leaving assets; in some instances, other asset distribution mechanisms (such as a trust or a pay-on-death clause) transfer asset ownership without court intervention. In other circumstances, a decedent's assets may be held jointly with a surviving person, requiring no asset ownership transfer and, thus, no court intervention.
[4] "Estate" means the property of a decedent that is the subject of administration. Section 731.201(14), F.S.
[5] A "will" means a testamentary instrument executed by a person in the manner provided in the Florida Probate Code, which disposes of a person's property on or after his or her death. Section 731.201(40), F.S. Until admitted to probate, a will is ineffective to prove title to, or the right to possession of, the testator's property. Section 733.103(1), F.S.
[6] *See generally* Parts V, VI, and IX, ch. 732, F.S. (governing wills, rules of will construction, and will production, respectively).
[7] *See generally* Part I, ch. 732, F.S. (governing intestate succession).
[8] "Personal representative" means the fiduciary appointed by the court to administer the estate and refers to what has been known as, among other things, an executor. Section 731.201(28), F.S.
[9] Letters of administration convey the legal authority to manage a decedent's estate. Section 731.201(24), F.S.
[10] Section 733.301(1)(a), F.S.

- The person selected by a majority in interest of the heirs.
- The heir nearest in degree (or the most qualified of such heirs, as chosen by the court, if there is more than one).[11]

To qualify to act as a personal representative, the person must have full legal capacity to act on his or her own behalf and be a Florida resident at the time of the relevant decedent's death;[12] or if the person is not a Florida resident, the person must be:

- The decedent's legally adopted child or adoptive parent;
- Related by lineal consanguinity to the decedent;
- The decedent's sibling, uncle, aunt, nephew, or niece, or someone related by lineal consanguinity to any such person; or
- The spouse of any such person.[13]

Florida law also provides that a person is not qualified to act as a personal representative if he or she:

- Is a convicted felon;
- Has been convicted of abuse, neglect, or exploitation of an elderly person or a disabled adult;
- Is mentally or physically unable to perform the duties of a personal representative; or
- Is a minor.[14]

Duties and Powers

A personal representative is a fiduciary who must observe the standard of care applicable to trustees of express trusts[15] and who is liable to interested persons for damage or loss resulting from the breach of his or her fiduciary duty.[16] Such duty generally begins upon appointment[17] and includes a duty to:

- Settle and distribute the estate in accordance with the decedent's will (if any) and applicable law.[18]
- Expeditiously proceed with the settlement and distribution of the decedent's estate.[19]
- Act in the best interests of interested persons, including creditors.[20]
- File a verified inventory of estate property, subject to statutory requirements.[21]
- Take all steps reasonably necessary for the estate's management, protection, and preservation.[22]

[11] Section 733.301(1)(b), F.S.
[12] Section 733.302, F.S.
[13] Section 733.304, F.S.
[14] Section 733.303, F.S.
[15] An "express trust" is a trust created with the settlor's express intent, usually declared in writing. *Byrne Realty Co. v. South Florida Farms Co.*, 89 So. 318, 326-27 (Fla. 1921).
[16] Section 733.609(1), F.S.
[17] Section 733.601, F.S.
[18] Section 733.602(1), F.S.
[19] Section 733.603, F.S.
[20] Section 733.602(1), F.S.
[21] Section 733.604, F.S.
[22] Section 733.607(1), F.S.

To assist in the exercise of such duties, the personal representative also has statutorily enumerated rights and powers. Specifically, the personal representative may (and in some cases, must), among other things:

- Take possession and control of the decedent's property.
- Perform or, when proper, refuse to perform the decedent's contracts.
- Invest the estate's funds.
- Acquire or dispose of assets, including, in certain circumstances, by sale or abandonment.
- Enter into leases.
- Pay taxes, assessments, and other expenses incident to estate administration.
- Continue any unincorporated business or venture in which the decedent was engaged at the time of death.
- Prosecute or defend claims or proceedings for the protection of the estate or the decedent's property.
- Employ persons, including attorneys, accountants, auditors, appraisers, investment advisers, and others to advise or assist the personal representative in estate administration.[23]

Fiduciary Bonds

Unless the bond requirement has been waived by the will or by the court, every personal representative (other than a bank or a trust acting as a personal representative) must execute and file a bond with surety, payable to the Governor and the Governor's successors in office, conditioned on the performance of all personal representative duties.[24] All such bonds must be in an amount that the court deems sufficient after considering the estate's gross value, the relationship of the personal representative to the beneficiaries, exempt property and any family allowance, the type and nature of assets, known creditors, and any liens or other encumbrances on the assets.[25]

Reporting Requirements

Florida law requires a personal representative to file certain reports with the court during various stages of the estate's administration, which the court may then review to ensure that the personal representative is properly managing the administration and meeting his or her fiduciary duties. These reports include:

- An inventory report detailing all of the decedent's assets and their respective market values.[26]
- A report detailing all claims filed against the estate.
- Any interim or supplemental accountings ordered by the court.[27]
- A final accounting with a petition for discharge stating, among other things:
  - That all claims filed against the estate have been paid, settled, or otherwise disposed of.
  - The amount of compensation paid or to be paid to the personal representative, attorneys, and others who aided the personal representative in account administration.

[23] *See generally* s. 733.612, F.S.
[24] Section 733.402(1), F.S.
[25] Section 733.403, F.S.
[26] Section 733.604(1), F.S.
[27] The personal representative may also choose to file interim accountings at any time, although such interim accountings are voluntary unless the court directs their filing. *See* Fla. Prob. R. 5.345(a) (providing that the fiduciary "may elect to file an interim accounting at any time, or the court may require an interim or supplemental accounting").

- A schedule of all prior estate asset distributions.
- An inventory of the estate assets remaining in the hands of the personal representative.
- A plan for the distribution of all remaining estate assets.[28]

Compensation

A personal representative is entitled to reasonable compensation for ordinary service, payable from the estate's assets, without a court order.[29] Such compensation must be based on the estate's compensable value, which is the inventory value of the estate's assets and the income the estate earns during administration, and Florida law provides that such compensation is presumed to be reasonable if calculated at statutorily-specified rates.[30] However, the court may increase or decrease the personal representative's compensation for ordinary services upon petition of any interested parties.[31]

A personal representative is also entitled to reasonable compensation for any extraordinary services, which the court may award upon petition of any interested person.[32] Extraordinary services may include:

- The sale of real or personal property.
- Litigating on behalf of the estate.
- Involvement in proceedings for the adjustment or payment of any taxes.
- The carrying on of the decedent's business.
- Dealing with protected homestead.
- The rendering of legal services in connection with estate administration, if the personal representative is a Florida Bar member.[33]
- Any other special services that may be necessary for the personal representative to perform.[34]

Further, if a will provides that a personal representative's compensation must be based on specific criteria, other than a general reference to compensation allowed by law, the personal representative is entitled to compensation in accordance with that provision; however, the personal representative may renounce the provision and receive compensation as provided in law, unless a contract with the decedent would prohibit such renunciation.[35]

Resignation

A personal representative generally has the right to resign and the court may, after notice to all interested persons, accept the resignation and then revoke the letters of the resigning personal representative if the resignation does not jeopardize the estate's interests.[36] Once the court

[28] Fla. Prob. R. 5.400.
[29] Section 733.617(1), F.S.
[30] Those rates are 3 percent for the first $1 million; 2.5 percent for all above $1 million and not exceeding $5 million; 2 percent for all above $5 million and not exceeding $10 million; 1.5 percent for all above $10 million. Section 733.617(2), F.S.
[31] Section 733.617(7), F.S.
[32] Section 733.617(3), F.S.
[33] Section 733.617(6), F.S. The Florida Supreme Court regulates the practice of law in Florida, through The Florida Bar. The Florida Bar, *About the Bar*, https://www.floridabar.org/about/ (last visited Jan. 15, 2026); FLA. CONST. art. V, s. 15.
[34] Section 733.617(3), F.S.
[35] Section 733.617(4), F.S.
[36] Section 733.502, F.S.

accepts the resignation, the court must then appoint a successor personal representative or, as discussed below, a curator to serve until a successor personal representative is appointed.[37]

Further, the resigning personal representative must:
- Surrender to the successor fiduciary all estate assets, records, documents, papers, and other property of or concerning the estate in the resigning personal representative's possession or control.[38]
- File and serve a final accounting of the personal representative's administration.[39]

Ultimately, a resigning personal representative may be discharged only after:
- Determination of the liability, if any, of such resigning personal representative.
- Compensation of the resigning personal representative and the attorney and other persons employed thereby.
- Receipt of evidence that undistributed estate assets have been delivered to the successor fiduciary.[40]

Removal

The court must remove and revoke the letters of a personal representative if the personal representative was not qualified to act at the time of appointment.[41] Further, the court may remove and revoke the letters of a personal representative for any of the following reasons:
- An adjudication of the personal representative's incapacity.
- Physical or mental incapacity.
- Failure of the personal representative to comply with any court order.
- Failure of the personal representative to account for the sale of property or to produce and exhibit estate assets when so required.
- Wasting or maladministration of the estate.
- Failure of the personal representative to give bond or security.
- The personal representative's felony conviction.
- The insolvency of, or the appointment of a receiver or liquidator for, a corporate personal representative.
- Holding or acquiring conflicting or adverse interests against the estate that will or may interfere with the administration of the estate as a whole.
- Revocation of the probate of the decedent's will that authorized or designated the personal representative's appointment.
- Termination of Florida residence, if such residence was a requirement of initial appointment.
- The personal representative was qualified to act at the time of appointment but would not now qualify.[42]

A removal proceeding may begin upon the petition of an interested person, or the court may begin such a proceeding upon its own initiative.[43] In either case, the court must revoke the letters

[37] Section 733.503, F.S.
[38] Section 733.5035, F.S.
[39] Section 733.5036(1), F.S.
[40] Section 733.5036(2), F.S.
[41] Section 733.504, F.S.
[42] *Id.*
[43] Section 733.506, F.S.

of a removed personal representative and appoint a successor personal representative or, as discussed below, a curator to serve until a successor personal representative is appointed.[44]

Curators

State law provides that, when necessary, the court may appoint[45] a "curator"[46] after formal notice to the person apparently entitled to letters of administration (that is, to the personal representative, or the person likely to be so appointed); however, where there is great danger that any of the decedent's property is likely to be wasted, destroyed, or removed beyond the court's jurisdiction, and if a curator's appointment would be delayed by giving notice, the court may appoint a curator without giving notice.[47]

In either case, curators may be authorized to perform any duty or function of a personal representative, may be subject to removal and surcharge, and may be required to post a bond as the court deems necessary; however, no bond may be required of a bank or trust company acting as a curator. Further, curators are entitled to reasonable compensation for their services, and the court may consider the provisions applicable to personal representative compensation in awarding such compensation.[48]

Though the necessity for which a curator's appointment might arise is not specified in Florida law, Florida courts have recognized that such necessity may include a delay in a personal representative's appointment, or in the appointment of a successor personal representative where the original personal representative resigns or otherwise becomes unwilling or unable to oversee the estate's administration.[49] However, Florida courts have also found that it is legally improper to simultaneously have a curator and a personal representative acting on behalf of an estate; thus, a court would likely need to remove any appointed personal representative before appointing a curator.[50] This comports with the general understanding, acknowledged by the courts, that a curator is usually only appointed as a temporary expedient to take possession of and preserve an estate's assets until a qualified personal representative may be appointed to manage the estate's administration.[51]

III. Effect of Proposed Changes:

The bill amends s. 733.501, F.S., regarding curators of estates, to expand the role of curators in state probate proceedings.

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[44] *Id.;* s. 733.5061, F.S.
[45] Curator appointment may occur upon the filing of a sufficient petition for such appointment, which petition must include, among other things, a statement as to why a curator should be appointed. A court may also appoint a curator on its own initiative. Fla. Prob. R. 5.122.
[46] "Curator" means a person appointed by the court to take charge of the estate of a decedent until letters of administration are issued. Section 731.201(8), F.S.
[47] Section 733.501(1), F.S.
[48] Section 733.501, F.S.
[49] *Gordin v. Estate of Maisel,* 179 So. 3d 518, 520-21 (Fla. 4th DCA 2015); *In re Estate of Miller,* 568 So. 2d 487, 488-90 (Fla. 1st DCA 1990).
[50] *Gordin*, 179 So. 3d at 521.
[51] *In re Sale's Estate*, 227 So. 2d 199, 202 (Fla. 1969).

Appointment of a Curator

The bill changes when a court may appoint a curator. Current law provides that the court may appoint a curator in only two situations:

- If it is necessary after formal notice to the person apparently entitled to letters of administration.
- If there is great danger that any of the decedent's property is likely to be wasted, destroyed, or removed beyond the jurisdiction of the court and without giving notice if the appointment of a curator would be delayed by giving notice.

Under the bill, the court may appoint a curator in any of the following circumstances:

- At any time with notice to interested persons as the court deems appropriate.
- There is significant danger that any of the decedent's property is likely to be wasted, destroyed, or removed beyond the jurisdiction of the court, and without giving notice to other interested persons if the appointment of a curator would be delayed by giving notice.
- In any other proper case, if deemed necessary to protect the interests of the estate or a decedent's heirs.

Accordingly, the bill increases the number of situations when a court may appoint a curator and gives the court greater discretion regarding the giving of notice.

Bond Requirements

Current law provides that a bond "shall be required of the curator as the court deems necessary." Similarly, under the bill, curators must post a reasonable bond in an amount to be determined by the court, but the court may waive this requirement. Bonds are not required for banks and trust companies that serve as curators.

Court Review

The bill requires curators to file reports with the court as the court deems necessary. The reports must detail the actions taken by the curator in managing the estate. The court must review the reports to ensure that the curator is effectively managing the estate and fulfilling its duties. The court may require more frequent reporting or additional documentation as it deems necessary to protect the interests of the estate.

Reenactment of s. 90.5021(1), F.S.

The bill reenacts s. 90.5021(1), F.S., to incorporate the amendments to s. 733.501, F.S., made by the bill.

Effective Date

The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires curators to file reports with the court as the court deems necessary. These reports must detail the actions taken by the curator in managing the estate. This requirement may impose additional costs on the decedent's estate, which will now have to compensate curators for preparing and filing these reports with the court.

C. Government Sector Impact:

The bill requires courts to review the reports submitted by curators to ensure that the curator is effectively managing the estate and fulfilling his or her duties. However, the court can control how often curators submit reports for review. Accordingly, the bill may impose some additional costs on courts associated with reviewing curator's reports but these additional costs, if any, are likely to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 733.501 of the Florida Statutes.

This bill reenacts section 90.5021 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 Judiciary on February 3, 2026:
The committee substitute deletes the provisions in the bill regarding the authority and duties of curators and only requires curators to file reports with the court if the court deems it necessary.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Burgess

590-02446-26 2026326c1

A bill to be entitled

An act relating to curators of estates; amending s. 733.501, F.S.; revising the authorization for a court to appoint a curator of estates; revising bond requirements for a curator of estates; clarifying who may subject a curator of estates to removal and surcharge; requiring a curator to file reports with the court in specified circumstances; requiring that certain details be included in such reports; requiring the court to review such reports; authorizing the court to require more frequent reporting or additional documents under certain circumstances; reenacting s. 90.5021(1), F.S., relating to fiduciary lawyer-client privilege, to incorporate the amendment made to s. 733.501, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 733.501, Florida Statutes, is amended to read:

733.501 Curators.—

(1) APPOINTMENT OF A CURATOR.—When it is necessary, the court may appoint a curator after formal notice to the person apparently entitled to letters of administration as follows:

(a) The court may appoint a curator at any time with notice to other interested persons as the court deems appropriate. The curator may be authorized to perform any duty or function of a personal representative.

590-02446-26 2026326c1

(b) If there is significant ~~great~~ danger that any of the decedent's property is likely to be wasted, destroyed, or removed beyond the jurisdiction of the court and if the appointment of a curator would be delayed by giving notice, the court may appoint a curator without giving notice to other interested persons.

(c) In any other proper case, the court may appoint a curator when deemed necessary to protect the interests of an estate or a decedent's heirs.

(2) BOND REQUIREMENTS.—Unless waived by the court, curators must post a reasonable bond in an amount to be determined by the court. However, bonds are not required for banks and trust companies that serve as curators ~~Bond shall be required of the curator as the court deems necessary. No bond shall be required of banks and trust companies as curators~~.

(3) COMPENSATION.—Curators are ~~shall be~~ allowed reasonable compensation for their services, and the court may consider ~~the provisions of~~ s. 733.617.

(4) REMOVAL AND SURCHARGE.—Curators are ~~shall be~~ subject to removal and surcharge by the court.

(5) COURT REVIEW.—

(a) The curator shall file reports with the court when the court deems it necessary. Such reports must detail the actions taken by the curator in managing the estate. The court shall review such reports to ensure that the curator is effectively managing the estate and fulfilling its duties.

(b) The court may require more frequent reporting or additional documentation as it deems necessary to protect the interests of the estate.

Section 2. For the purpose of incorporating the amendment made by this act to section 733.501, Florida Statutes, in a reference thereto, subsection (1) of section 90.5021, Florida Statutes, is reenacted to read:

90.5021 Fiduciary lawyer-client privilege.—

(1) For the purpose of this section, a client acts as a fiduciary when serving as a personal representative or a trustee as defined in ss. 731.201 and 736.0103, an administrator ad litem as described in s. 733.308, a curator as described in s. 733.501, a guardian or guardian ad litem as defined in s. 744.102, a conservator as defined in s. 710.102, or an attorney in fact as described in chapter 709.

Section 3. This act shall take effect July 1, 2026.

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 598
INTRODUCER:	Senator Truenow
SUBJECT:	Funeral, Cemetery, and Consumer Services
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Pre-meeting**
2.			AEG	
3.			FP	

I. Summary:

SB 598 revises chapter 497, Florida Statutes, the Florida Funeral, Cemetery, and Consumer Services Act (Act), which provides for the regulation of funeral and cemetery services.

The bill prohibits licensees from contracting to become the exclusive or sole provider of funeral, cremation, refrigeration, or removal services for any entity that provides medical, palliative, or other end-of-life care and services to the general public.

The bill limits to $200,000, the total liability for damages in any civil action for negligence brought against a licensee.

The bill allows licensees to dispose of human remains that have been in their lawful possession for at least 90 days if the legally authorized person of the decedent fails, neglects, or refuses to direct the disposition. Licensees may not be held liable for doing so. The bill also provides that if, after 90 days (current law is 120 days) from the time of cremation the cremated remains have not been claimed, the funeral or direct disposal establishment may dispose of the cremated remains.

The bill eliminates the licenses for direct disposers and direct disposer establishments, effective July 1, 2026; however, current licensees may renew their licensure after that date and continue practicing. Under current law, licensed direct disposers may engage in a limited scope of practice that allows them to sell services to the public for lawfully facilitating cremation without preparation by embalming and without any attendant services or rites.

The bill provides that the minimum acreage of a cemetery must be contiguous, except that parcels of land divided solely by a public right-of-way or public road may be considered contiguous, provided the parcels are in close geographic proximity and form a unified cemetery property.

To attract new practitioners of funeral and cemetery services in Florida, the bill revises licensure requirements under the Act, providing that:

- A licensure by endorsement as an embalmer, funeral director, or a combination funeral director and embalmer for an applicant that holds a valid license in another state and has at least 5 years' experience of licensed practice in that state does not require educational or testing requirements other than passage of the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies.
- The educational requirements that a funeral director licensure applicant who has not completed the educational credentials required for the license are revised to remove passage of a college course in mortuary or funeral service law.
- Licensure as a combination funeral director and embalmer intern, a licensure that is available to applicants who have not completed the educational credentials required for a combination license as both a funeral director and embalmer, requires either an associate degree or higher from an accredited college or university or current enrollment in an accredited college in an accredited course of study in mortuary science.

The bill exempts prepaid funeral contracts from the insurable interest requirements of the Florida Insurance Code. The bill also allows the written notice by the preneed licensee to the purchaser or beneficiary's legally authorized person of the preneed licensee's intent to distribute funds related to unfulfilled services, may be sent to the to the last known e-mail or mailing address of the purchaser or the beneficiary's legally authorized person, whichever is applicable.

The bill's effective date is July 1, 2026.

II. Present Situation:

Funeral, Cemetery, and Consumer Services

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act (Act), provides for the regulation of funeral and cemetery services.[1] The Act authorizes the Board of Funeral, Cemetery, and Consumer Services (Board) within the Department of Financial Services (DFS) to regulate cemeteries, columbaria, cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.[2]

Section 20.121(4), F.S., creates the Board within the Division of Funeral, Cemetery, and Consumer Services of the DFS. The Board acts as the licensing and rulemaking authority for certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements;[3]

[1] *See* Section 497.001, F.S.
[2] Sections 497.101 and 497.103, F.S.
[3] *See* s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

The Board has broad authority over licensure and examination of applicants for various licenses including:

- Authority to determine any and all criteria for licensure;
- Authority to specify who may conduct practical examination;
- Authority to specify the content of examinations for licensure, both written and practical, and the relative weighting of areas examined, and grading criteria, and determination of what constitutes a passing grade;
- Authority to strike any examination question determined before or after an examination to be inappropriate for any reason;
- Authority to specify which national examinations or parts thereof shall or shall not be required or accepted regarding Florida licensure;
- Authority to determine time limits and substantive requirements regarding reexamination of applicants who fail any portion of a licensing examination; and
- Authority to determine substantive requirements and conditions relating to apprenticeships and internships, and temporary licensure pending examination.[4]

The Board must have 10 members, nine of whom are to be appointment by the Chief Financial Officer (CFO) and confirmed by the Senate and one member must be the State Health Officer, or his or her designee.[5] The composition of the Board must be as follows:

- The State Health Officer;
- Two funeral directors who are:
  - Licensed under part III of ch. 497, F.S., as funeral directors, and
  - Associated with a funeral establishment;
- One funeral director who is:
  - Licensed under part III of ch. 497, F.S., and
  - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S.
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
  - Are residents of Florida;
  - Have never been licensed funeral directors or embalmers;
  - Are not connected with a cemetery or licensed cemetery company;
  - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
  - At least one of which is at least 60 years of age; and
  - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.[6]

Two or more members may not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.[7] Board members are appointed for

[4] Section 497.103(1)(a)-(g), F.S.
[5] Section 497.101(1), F.S.
[6] Section 497.101(2), F.S.
[7] *Id.*

four-year terms, however, a member may not serve for more than 8 consecutive years (except for the State Health Officer, who serves so long as he or she holds the office).[8]

Funeral Director and Embalmer Licensure

The practice of funeral services is divided into three relevant licenses. A person may be licensed as a funeral director,[9] an embalmer,[10] or with a combination license for the practice of funeral directing and embalming.[11]

Applicants for an embalmer license must take courses in mortuary science, complete a one-year internship, and pass an examination on the subjects of the theory and practice of embalming, restorative art, pathology, anatomy, microbiology, chemistry, hygiene, public health and sanitation, and local, state, and federal laws and rules relating to the disposition of dead human bodies.[12] Applicants for a combination funeral directing and embalmer license must meet the requirements for an embalmer's license, as well as take approved courses in funeral service arts, and pass the funeral services arts section of the national board examination.[13]

Applicants for a funeral director-only license are required to take classes in both mortuary science and funeral service arts, complete a one-year internship, pass the state and federal laws and rules examination relating to the disposition of human remains, and an examination on the theory and practice of funeral directing and funeral service arts.[14]

Direct Disposer Licensure

A "direct disposer" is any person licensed to practice direct disposition in Florida.[15] The "practice of direct disposition" is the cremation of human remains without preparation by embalming and without any attendant services or rites.[16] Applicants for a direct disposer license must take a course on communicable diseases and pass an examination on the local, state, and federal laws and rules relating to the disposition of dead human bodies.[17]

Funeral Establishment Licensure

Section 497.380, F.S., provides for the regulation of funeral establishments. Each licensed funeral establishment must have one full-time funeral director in charge.[18] A funeral establishment must:

- Be a place at a specific street address or location;
- Consist of at least 1,250 contiguous interior square feet;

[8] Section 497.101(3), F.S.
[9] Section 497.372, F.S.
[10] Section 497.368, F.S.
[11] Section 497.376, F.S.
[12] Section 497.368, F.S.
[13] Section 497.376, F.S
[14] Section 497.373, F.S.
[15] Section 497.005(28), F.S.
[16] Section 497.005(58), F.S.
[17] Section 497.602(3), F.S.
[18] Section 497.380(7), F.S.

- Maintain or make arrangements for the refrigeration and storage of dead human bodies handled and stored by the establishment; and
- Maintain or make arrangements for a preparation room equipped with necessary ventilation and drainage and containing necessary instruments for embalming dead human bodies.[19]

Direct Disposal Establishment Licensure

Section 497.604, F.S., provides for the regulation of direct disposal establishments. Each licensed direct disposal establishment must have one full-time funeral director in charge.[20] A direct disposal establishment must:

- Be in a fixed location;
- Consist of at least 625 contiguous interior square feet; and
- Maintain or make arrangements for the refrigeration and storage of dead human bodies handled and stored by the establishment.[21]

Storage, Preservation, and Transportation of Human Remains

Human remains may only be stored at a licensed establishment or facility licensed under ch. 497, F.S., or a health care facility, medical examiner's facility, morgue, or cemetery holding facility.[22] A dead human body may not be held in any place or in transit over 24 hours after death or pending final disposition unless the body is maintained at a temperature of 40 degrees Fahrenheit or below or is embalmed or otherwise preserved in a manner approved by the licensing authority.[23]

In an emergency situation, including the abandonment of any licensed establishments or facilities, the DFS is authorized to enter and secure certain locations.[24] In such a situation, the DFS may remove human remains and cremated remains.[25] These locations include:

- An establishment or facility licensed under ch. 497, F.S.
- Any medical examiner's facility or morgue; and
- A cemetery holding facility.[26]

Cremation

Cremation of human remains in Florida is governed by s. 497.607, F.S. Cremation of human remains requires written authorization from a legally authorized person.[27] The cremation must be performed within 48 hours after a specified time which has been agreed to in writing by the person authorizing the cremation.[28] If, after a period of 120 days from the time of cremation the cremated remains have not been claimed, the funeral or direct disposal establishment may dispose of the cremated remains, which may include scattering them at sea or placing them in a

[19] Section 497.380(1), F.S.
[20] Section 497.604(8)(a), F.S.
[21] Section 497.604(9)(b), F.S.
[22] Section 497.386(1), F.S.
[23] Section 497.386(2), F.S.
[24] Section 497.386(5), F.S.
[25] *Id.*
[26] *Id.*
[27] Section 497.607(1), F.S.
[28] *Id.*

licensed cemetery scattering garden or pond or in a church columbarium or otherwise disposing of the remains as provided by rule of the Board.[29]

Cemetery Companies

A person seeking a cemetery license must apply for a license.[30] The proposed cemetery must contain at least 30 contiguous acres and the application must state the exact number of acres in the proposed cemetery.[31] Any land dedicated for use as a cemetery, which is in excess of a minimum of 30 contiguous acres, may be sold, conveyed, or disposed of by the licensee, after obtaining written approval of the DFS for use by the new owner for purposes other than as a cemetery.[32] All of the human remains that have been previously interred therein, if any, must first have been removed from the land proposed to be sold, conveyed, or disposed of.[33]

Solicitation of Goods or Services

The Board is charged with protecting the public from solicitation of sales of burial rights, merchandise, or services by licensees which is intimidating, overreaching, fraudulent, or misleading; which utilizes undue influence; or which takes undue advantage of a person's ignorance or emotional vulnerability.[34] At-need solicitation of sales of burial rights, merchandise, or services is prohibited. The family or next of kin of a deceased person may not be contacted to sell services or merchandise unless the person making contact has been initially called or contacted by the family or next of kin and requested to provide services or merchandise.[35]

Private actions; actions on behalf of consumers; attorney's fee

The Attorney General, or the DFS on behalf of Florida residents, or any person may bring a civil action against a person or company violating the provisions of ch. 497, F.S.[36] If the civil action is successful, the defendant is liable for actual damages caused by the violation.[37] The court may award punitive damages and may provide such other equitable relief as it deems suitable.[38] If the litigation results from a transaction involving a violation by a cemetery company, a burial rights broker, a monument establishment, or a preneed entity or preneed sales agent the court may award reasonable attorney's fees and costs.[39]

Preneed Contracts - Cancellation or Default

Part IV of ch. 497, F.S., governs preneed funeral merchandise or service contract businesses and preneed burial merchandise or service contract businesses. Such businesses are exempt from the Florida Insurance Code.[40] A "preneed contract" is any arrangement or method for which the

[29] Section 497.607(3)(a), F.S.
[30] Section 497.263(2)(a), F.S.
[31] Section 497.263(2)(g), F.S.
[32] Section 497.270(2), F.S.
[33] *Id.*
[34] Section 497.164(1) and (2), F.S.
[35] Section 497.164(5), F.S.
[36] Section 497.169(1), F.S.
[37] *Id.*
[38] *Id.*
[39] Section 497.169(2), F.S.
[40] Section 497.450, F.S.

provider of funeral merchandise or services receives any payment in advance for funeral or burial merchandise and services after the death of the contract beneficiary.[41] Persons who sell preneed contracts are licensed by the Board.[42] Any person who receives funds under a preneed contract for funeral services or merchandise or burial services or merchandise to deposit certain percentages of the amounts received with a trust company operating pursuant to ch. 660, F.S., with a national or state bank holding trust powers, or with a federal or state savings and loan association holding trust powers.[43]

A preneed licensee must provide to the purchaser or to the beneficiary's legally authorized person written notice of the licensee's intent to distribute funds if any obligation of the licensee remains to be fulfilled under the contract, upon the occurrence of the earliest of any of the following events:

- Fifty years after the date of execution of the preneed contract by the purchaser.
- The beneficiary of the preneed contract attains the age of 105 years of age or older.
- The social security number of the beneficiary of the preneed contract, as shown on the contract, is contained within the United States Social Security Administration Death Master File.[44]

Such written notice must be provided by certified mail, registered mail, or permitted delivery service, return receipt requested, to the last known mailing address of the purchaser or the beneficiary's legally authorized person, whichever is applicable, as provided to the preneed licensee.[45]

Insurable Interest; Personal Insurance

A person of legal capacity may procure or effect an insurance contract on his or her own life or body for the benefit of any person but may not procure or cause to be procured an insurance contract on the life of another individual unless the benefits under such contract are payable to the individual insured or his or her personal representatives, or to any person having, at the time such contract was made, an insurable interest in the individual insured.[46] Other than a policy of group life insurance or group or blanket accident, health, or disability insurance, a contract of insurance upon a person may not be effectuated unless, on or before the time of entering into such contract, the person insured applies for or consents in writing to the contract and its terms.[47] Insurable interest requirements exist to prevent the moral hazard associated with third parties benefiting financially because of the death of the insured or because of damage to the insured's real or personal property.

III. Effect of Proposed Changes:

Section 1 amends s. 497.164, F.S., to provide that a licensee under ch. 497, F.S., may not enter into a contract, agreement, or other arrangement in which that licensee or any affiliated licensee

[41] Section 497.005(62), F.S.
[42] Section 497.453, F.S.
[43] Section 497.458, F.S.
[44] Section 497.459(7)(a), F.S.
[45] Section 497.459(7)(b)1., F.S.
[46] Section 627.404(1), F.S.
[47] Section 627.404(5), F.S.

becomes the exclusive or sole provider of funeral, cremation, refrigeration, or removal services for any entity that provides medical, palliative, or other end-of-life care and services to the general public.

Section 2 amends s. 497.169, F.S, to provide that the total liability for damages in any civil negligence action brought against a person or company licensed pursuant to this section may not exceed $200,000.

- Please see VI. – Technical Deficiencies, regarding ambiguous language in this section.

Sections 3 and 4 amend ss. 497.263 and 497.270, F.S., to provide that the minimum acreage of a cemetery must be contiguous, except that parcels of land divided solely by a public right-of-way or public road may be considered contiguous, provided the parcels are in close geographic proximity and form a unified cemetery property. The cemetery license application must state the exact number of acres in the proposed cemetery and must identify any public rights-of-way or roads dividing the parcels. Parcels located in separate or distant geographic areas, even if along the same roadway or corridor, do not satisfy the contiguity requirement.

Section 5 amends s. 487.369, F.S., to provide that licensure by endorsement as an embalmer for an applicant that holds a valid license in good standing to practice embalming in another state and has engaged in the full-time, licensed practice of embalming in that state for at least 5 years does not require any educational or testing requirements other than passage of the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies required under s. 497.368, F.S.

Section 6 amends s. 497.374, F.S., to provide that licensure by endorsement as a funeral director for an applicant that holds a valid license in good standing to practice funeral directing in another state and has engaged in the full-time, licensed practice of funeral directing in that state for at least 5 years does not require any educational or testing requirements other than passage of the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies required under s. 497.373(2)(b), F.S.

Section 7 amends s. 497.375, F.S., to remove one of the three educational requirements that a funeral director licensure applicant must meet if seeking licensure despite not completing the educational credentials required for the license. The bill eliminates the requirement to receive a passing grade in a college credit course in mortuary law or funeral service law and in a college credit course in ethics. The other two requirements retained by the bill are that the applicant must hold an associate degree or higher from an accredited college or university and must be enrolled in and attending a licensing authority-approved course of study in mortuary science or funeral service arts required for licensure as a funeral director.

Section 8 amends s. 497.376, F.S., to provide that an applicant for licensure for a combination license by endorsement as a funeral director and embalmer under ss. 497.373 and s. 497.369, F.S., respectively, is not required to meet any educational or testing requirements other than passage of the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies required under ss. 497.373(2)(b) and 497.369(4), F.S.

Section 9 amends s. 497.377, F.S., to revise the requirements for licensure as a combination funeral director and embalmer intern, a licensure that is available to applicants who have not completed the educational credentials required for a combination license as both a funeral director and embalmer. The bill provides that such applicants, to obtain the intern license, must:

- Hold an associate degree or higher in any field from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education; or
- Is currently enrolled in and attending a college accredited by the American Board of Funeral Service Education (ABFSE) in a course of study in mortuary science accredited by ABFSE.

Current law requires that to obtain the intern license, the applicant must meet the latter of these requirements and must also have completed at least 75 percent of the course of study in mortuary science and have received a passing grade in a college course in mortuary law or funeral service law.

Section 10 amends s. 497.386, F.S., to provide that if any human remains have been in the lawful possession of any licensee or licensed facility for 90 days or more, and the legally authorized person of the decedent fails, neglects, or refuses to direct the disposition of the remains, the licensee or licensed facility may dispose of the human remains and licensee or licensed facility who disposes of such human remains pursuant to this subsection may not be held liable for any action arising out of such disposal.

Section 11 amends s. 497.459, F.S., to provide that for purposes of ensuring the performance of unfulfilled preneed contracts, the required written notice by the preneed licensee to the purchaser or to the beneficiary's legally authorized person of the preneed licensee's intent to distribute funds in accordance with the terms of the preneed contract, if any obligation of the preneed licensee remains to be fulfilled under the contract, may be sent to the to the last known e-mail or mailing address of the purchaser or the beneficiary's legally authorized person, whichever is applicable, as provided to the preneed licensee.

Section 12 amends s. 497.602, F.S., to provide that effective July 1, 2026, applications may not be submitted to, and licenses may not be issued by the DFS for direct disposers. However, a person licensed as a direct disposer before July 1, 2026, may continue to practice as such, provided the person continues to renew their direct disposer license pursuant to s. 497.603, F.S.

Section 13 amends s. 497.604, F.S., to provide that effective July 1, 2026, applications may not be submitted to, and licenses may not be issued by, the DFS for direct disposal establishments. However, a person licensed as a direct disposal establishment before July 1, 2026, may continue to practice as such, provided the person continues to renew his or her direct disposal establishment license pursuant to subsection 497.604(3), F.S.

Section 14 amends s. 497.607, F.S., to provide that if any person who intends to provide for the cremation of the deceased, if, after 90 days (current law is 120 days) from the time of cremation the cremated remains have not been claimed, the funeral or direct disposal establishment may dispose of the cremated remains.

Section 15 amends s. 627.404, F.S., to exempt prepaid funeral contracts from the requirement that an insurance contract may not be carried out unless, on or before the time of entering into such contract, the person insured, having legal capacity to contract, applies for or consents in writing to the contract and its terms.

Section 16 reenacts s. 497.260, F.S, for purposes of incorporating the amendment made by the bill to s. 497.263, F.S.

Section 17 provides that bill takes effect July 1, 2026.

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:

Endorsement licensure applicants will no longer be required to pay for a national examination, which is administered in two parts, with each part costing $285.[48]

The elimination of the licenses for direct disposer and direct disposer establishments may reduce the availability of a lower cost cremation option for consumers.

[48] Department of Financial Services, *2026 Legislative Bill Analysis SB 598*, pg. 4 (2026).

The limitation on damages for a civil liability action based on negligent violations of ch. 497, F.S., will benefit licensees but limit possible recoveries by plaintiffs.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Lines 97-99 provide that, "The total liability for damages in any civil action for negligence brought against a *person or company licensed pursuant to this section* may not exceed $200,000." Presumably, the intent is to limit negligence actions brought pursuant to s. 497.169, F.S., which authorizes such actions for violations of ch. 497, F.S. The bill text, however, can be read to refer to persons or companies licensed pursuant to this section (s. 497.169, F.S.), which is not a licensure statute.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 497.164, 497.169, 497.263, 497.270, 497.369, 497.374, 497.375, 497.376, 497.377, 497.386, 497.459, 497.602, 497.604, 497.607, 627.404, 497.260

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.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 79 - 546
and insert:
Section 2. Paragraph (g) of subsection (2) of section 497.263, Florida Statutes, is amended to read:
497.263 Cemetery companies; license required; licensure requirements and procedures.—
(2) APPLICATION PROCEDURES.—
(g) The proposed cemetery must contain at least 30

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~~contiguous~~ acres. Such acreage must be contiguous, except that parcels of land divided solely by a public right-of-way or public road may be considered contiguous, provided the parcels are in close geographic proximity and form a unified cemetery property. The application must state the exact number of acres in the proposed cemetery and must identify any public rights-of-way or roads dividing the parcels. Parcels located in separate or distant geographic areas, even if along the same roadway or corridor, do not satisfy the contiguity requirement of this paragraph ~~The application shall state the exact number of acres in the proposed cemetery~~.

Section 3. Subsection (2) of section 497.270, Florida Statutes, is amended to read:

497.270 Minimum acreage; sale or disposition of cemetery lands.—

(2) Any lands owned by a licensee and dedicated for use by it as a cemetery, which meet the criteria set forth in s. 497.263(2)(g) ~~are in excess of a minimum of 30 contiguous acres~~, may be sold, conveyed, or disposed of by the licensee, after obtaining written approval pursuant to procedures and using ~~utilizing~~ forms specified by rule and consistent with subsection (3), for use by the new owner for other purposes than as a cemetery. All of the human remains which have been previously interred therein must ~~shall~~ first be ~~have been~~ removed from the lands proposed to be sold, conveyed, or disposed of; however, ~~the provisions of~~ ss. 497.152(8)(e) and 497.384 must be complied with before ~~prior to~~ any disinterment of human remains. ~~Any and~~ All titles, interests, or burial rights which may have been sold or contracted to be sold in lands which are the subject of the

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sale must ~~shall~~ be conveyed to and revested in the licensee before ~~prior to~~ consummation of any such sale, conveyance, or disposition.

Section 4. Subsection (4) of section 497.369, Florida Statutes, is amended to read:

497.369 Embalmers; licensure as an embalmer by endorsement; licensure of a temporary embalmer.—

(4) Each applicant for licensure by endorsement shall ~~must~~ pass the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies ~~which is~~ required under s. 497.368 and which shall be given by the licensing authority. Licensure by endorsement under subparagraph (1)(b)1. does not require any educational or testing requirements other than those required in this subsection.

Section 5. Subsection (4) of section 497.374, Florida Statutes, is amended to read:

497.374 Funeral directing; licensure as a funeral director by endorsement; licensure of a temporary funeral director.—

(4) Each applicant for licensure by endorsement shall ~~must~~ pass the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies ~~which is~~ required under s. 497.373 and which shall be given by the licensing authority. Licensure by endorsement under subparagraph (1)(b)1. does not require education or testing requirements other than those required in s. 497.373(2)(b).

Section 6. Paragraph (b) of subsection (1) of section 497.375, Florida Statutes, is amended to read:

497.375 Funeral directing; licensure of a funeral director intern.—

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(1)

(b)1. Except as provided in subparagraph 2., an applicant must hold the educational credentials required for licensure of a funeral director under s. 497.373(1)(d).

2. An applicant who has not completed the educational credentials required for a funeral director license is eligible for licensure as a funeral director intern if the applicant:

a. Holds an associate degree or higher in any field from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education.

b. Is currently enrolled in and attending a licensing authority-approved course of study in mortuary science or funeral service arts required for licensure of a funeral director under s. 497.373(1)(d)2.

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

Section 7. Subsection (3) is added to section 497.376, Florida Statutes, to read:

497.376 License as funeral director and embalmer permitted.—

(3) An applicant for a combination license by endorsement as a funeral director and embalmer under s. 497.373 and s. 497.369, respectively, is not required to meet any educational or testing requirements other than those in ss. 497.373(2)(b) and 497.369(4).

Section 8. Paragraph (a) of subsection (2) of section 497.377, Florida Statutes, is amended to read:

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497.377 Combination funeral director and embalmer internships.—

(2)(a) An applicant who has not completed the educational credentials required for a combination license as both funeral director and embalmer is eligible for licensure as a combination funeral director and embalmer intern if the applicant:

1. Holds an associate degree or higher in any field from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education; or

2. Is currently enrolled in and attending a college accredited by the American Board of Funeral Service Education (ABFSE) in a course of study in mortuary science accredited by ABFSE.

~~2. Has completed at least 75 percent of the course of study in mortuary science as certified by the college in which the applicant is currently enrolled.~~

~~3. Has taken and received a passing grade in a college credit course in mortuary law or funeral service law and has taken and received a passing grade in a college credit course in ethics.~~

Section 9. Present subsections (6) and (7) of section 497.386, Florida Statutes, are redesignated as subsections (7) and (8), respectively, and a new subsection (6) is added to that section, to read:

497.386 Storage, preservation, and transportation of human remains.—

(6) If any human remains have been in the lawful possession of any licensee or licensed facility for 90 days or more, and

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the legally authorized person of the decedent fails, neglects, or refuses to direct the disposition, the licensee or licensed facility may dispose of the human remains. Any licensee or licensed facility who disposes of human remains pursuant to this subsection may not be held liable for any action arising out of such disposal.

Section 10. Paragraph (b) of subsection (7) of section 497.459, Florida Statutes, is amended to read:

497.459 Cancellation of, or default on, preneed contracts; required notice.—

(7) NOTICE TO PURCHASER OR LEGALLY AUTHORIZED PERSON.—

(b)1. The notice in paragraph (a) must be provided by certified mail, registered mail, or permitted delivery service~~, return receipt requested~~, to the last known e-mail or mailing address of the purchaser or the beneficiary's legally authorized person, whichever is applicable, as provided to the preneed licensee. If the notice is returned as undeliverable within 30 calendar days after the preneed licensee sent the notice, the trustee must ~~shall~~ perform a diligent search and inquiry to obtain a different e-mail or mailing address for the purchaser or the beneficiary's legally authorized person, whichever is applicable. The board may adopt rules to implement this subparagraph ~~For purposes of this subparagraph, any address known and used by the purchaser or the beneficiary's legally authorized person, whichever is applicable, for sending regular mailings or other communications from the purchaser or the beneficiary's legally authorized person, whichever is applicable, to the preneed licensee or any address produced through a current address service or searchable database shall~~

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~~be included with other addresses produced from the diligent search and inquiry, if any. If the trustee's diligent search and inquiry produces an address different from the notice address, the trustee shall mail a copy of the notice by certified mail, registered mail, or permitted delivery service, return receipt requested, to any and all addresses produced as a result of the diligent search and inquiry~~.

2. If the purchaser or the beneficiary's legally authorized person, whichever is applicable, fails to respond to such notice within 120 days after delivery of the last mailed notice under subparagraph 1., the funds held in trust must be distributed in accordance with the terms of the preneed contract, the trust agreement, and any applicable provisions of chapter 717.

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

And the title is amended as follows:

Delete lines 6 - 57

and insert:

amending s. 497.263, F.S.; revising the procedures for applicants seeking a cemetery license; amending s. 497.270, F.S.; conforming a provision to changes made by the act; amending s. 497.369, F.S.; revising the requirements for an applicant seeking licensure by endorsement to be an embalmer; amending s. 497.374, F.S.; revising the requirements for an applicant seeking licensure by endorsement to be a funeral director; amending s. 497.375, F.S.; deleting an exception to the educational requirements for an applicant seeking licensure to be a funeral director;

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amending s. 497.376, F.S.; revising the requirements for an applicant seeking a license by endorsement as a combination funeral director and embalmer; amending s. 497.377, F.S.; revising the educational requirements for licensure to be a combination funeral director and embalmer intern; amending s. 497.386, F.S.; authorizing a licensee or a licensed facility to dispose of human remains in a specified manner if the legally authorized person of the decedent fails, neglects, or refuses to direct the disposition; providing that the licensee or licensed facility is not liable for any action arising out of such disposal; amending s. 497.459, F.S.; revising the method in which a preneed licensee must send written notice to cancel a preneed contract; authorizing the Board of Funeral, Cemetery, and Consumer Services to adopt rules; amending s.

By Senator Truenow

13-00551-26 2026598__

A bill to be entitled

An act relating to funeral, cemetery, and consumer services; amending s. 497.164, F.S.; prohibiting a licensee of funeral or cemetery services from entering into certain contracts, agreements, or arrangements; amending s. 497.169, F.S.; limiting the total liability for damages for certain civil actions against a person or company licensed under ch. 497, F.S.; amending s. 497.263, F.S.; revising the procedures for applicants seeking a cemetery license; amending s. 497.270, F.S.; conforming a provision to changes made by the act; amending s. 497.369, F.S.; revising the requirements for an applicant seeking licensure by endorsement to be an embalmer; amending s. 497.374, F.S.; revising the requirements for an applicant seeking licensure by endorsement to be a funeral director; amending s. 497.375, F.S.; deleting an exception to the educational requirements for an applicant seeking licensure to be a funeral director; amending s. 497.376, F.S.; revising the requirements for an applicant seeking a license by endorsement as a combination funeral director and embalmer; amending s. 497.377, F.S.; revising the educational requirements for licensure to be a combination funeral director and embalmer intern; amending s. 497.386, F.S.; authorizing a licensee or a licensed facility to dispose of human remains in a specified manner if the legally authorized person of the decedent fails, neglects, or refuses to direct the disposition;

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providing that the licensee or licensed facility is not liable for any action arising out of such disposal; amending s. 497.459, F.S.; revising the method in which a preneed licensee must send written notice to cancel a preneed contract; authorizing the Board of Funeral, Cemetery, and Consumer Services to adopt rules; amending s. 497.602, F.S.; prohibiting the Department of Financial Services from accepting applications and issuing licenses for direct disposers after a specified date; authorizing a person licensed before the specified date to continue to practice as a direct disposer by renewing his or her license; deleting the application procedures to become a licensed direct disposer; deleting responsibilities of the licensing authority issuing a direct disposer license; amending s. 497.604, F.S.; revising an exception to the prohibition against a person opening or maintaining an establishment in which he or she holds himself or herself out as a direct disposer; prohibiting the department from accepting applications and issuing licenses for direct disposal establishments after a specified date; authorizing a person licensed before the specified date to continue to practice by renewing his or her license; deleting application requirements; requiring the location of direct disposition to be used solely for the business of the establishment; conforming provisions to changes made by the act; making technical changes; amending s. 497.607, F.S.; revising the timeframe after which a

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

funeral or direct disposal establishment may dispose of cremated remains if the remains have not been claimed; amending s. 627.404, F.S.; revising the exceptions to the prohibition relating to personal insurance; reenacting s. 497.260(5), F.S., relating to cemeteries, exemptions, investigations, and mediation, to incorporate the amendment made to s. 497.263, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (6) is added to section 497.164, Florida Statutes, to read:

497.164 Solicitation of goods or services.—

(6) A licensee under this chapter may not enter into a contract, agreement, or other arrangement in which that licensee or any affiliated licensee becomes the exclusive or sole provider of funeral, cremation, refrigeration, or removal services for any entity that provides medical, palliative, or other end-of-life care and services to the general public.

Section 2. Present subsections (2) and (3) of section 497.169, Florida Statutes, are redesignated as subsections (3) and (4), respectively, a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

497.169 Private actions; actions on behalf of consumers; attorney's fee.—

(1) Notwithstanding s. 497.157, the Attorney General, or the department on behalf of ~~Florida~~ residents of this state, or any person may bring a civil action against a person or company

violating ~~the provisions of~~ this chapter in the appropriate court of the county in which the alleged violator resides or has her or his or its principal place of business or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant is ~~shall be~~ liable for actual damages caused by such violation. The court may, as provided by common law, award punitive damages and may provide such equitable relief as it deems proper or necessary, including enjoining the defendant from further violations of this chapter.

(2) The total liability for damages in any civil action for negligence brought against a person or company licensed pursuant to this section may not exceed $200,000.

Section 3. Paragraph (g) of subsection (2) of section 497.263, Florida Statutes, is amended to read:

497.263 Cemetery companies; license required; licensure requirements and procedures.—

(2) APPLICATION PROCEDURES.—

(g) The proposed cemetery must contain at least 30 ~~contiguous~~ acres. Such acreage must be contiguous, except that parcels of land divided solely by a public right-of-way or public road may be considered contiguous, provided the parcels are in close geographic proximity and form a unified cemetery property. The application must state the exact number of acres in the proposed cemetery and must identify any public rights-of-way or roads dividing the parcels. Parcels located in separate or distant geographic areas, even if along the same roadway or corridor, do not satisfy the contiguity requirement of this paragraph ~~The application shall state the exact number of acres in the proposed cemetery~~.

Section 4. Subsection (2) of section 497.270, Florida Statutes, is amended to read:

497.270 Minimum acreage; sale or disposition of cemetery lands.—

(2) Any lands owned by a licensee and dedicated for use by it as a cemetery, which meet the criteria set forth in s. 497.263(2)(g) ~~are in excess of a minimum of 30 contiguous acres~~, may be sold, conveyed, or disposed of by the licensee, after obtaining written approval pursuant to procedures and using ~~utilizing~~ forms specified by rule and consistent with subsection (3), for use by the new owner for other purposes than as a cemetery. All of the human remains which have been previously interred therein must ~~shall~~ first be ~~have been~~ removed from the lands proposed to be sold, conveyed, or disposed of; however, ~~the provisions of~~ ss. 497.152(8)(e) and 497.384 must be complied with before ~~prior to~~ any disinterment of human remains. ~~Any and~~ All titles, interests, or burial rights which may have been sold or contracted to be sold in lands which are the subject of the sale must ~~shall~~ be conveyed to and revested in the licensee before ~~prior to~~ consummation of any such sale, conveyance, or disposition.

Section 5. Subsection (4) of section 497.369, Florida Statutes, is amended to read:

497.369 Embalmers; licensure as an embalmer by endorsement; licensure of a temporary embalmer.—

(4) Each applicant for licensure by endorsement shall ~~must~~ pass the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies ~~which is~~ required under s. 497.368 and which shall be given by the

licensing authority. Licensure by endorsement under subparagraph (1)(b)1. does not require any educational or testing requirements other than those required in this subsection.

Section 6. Subsection (4) of section 497.374, Florida Statutes, is amended to read:

497.374 Funeral directing; licensure as a funeral director by endorsement; licensure of a temporary funeral director.—

(4) Each applicant for licensure by endorsement shall ~~must~~ pass the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies ~~which is~~ required under s. 497.373 and which shall be given by the licensing authority. Licensure by endorsement under subparagraph (1)(b)1. does not require education or testing requirements other than those required in s. 497.373(2)(b).

Section 7. Paragraph (b) of subsection (1) of section 497.375, Florida Statutes, is amended to read:

497.375 Funeral directing; licensure of a funeral director intern.—

(1)

(b)1. Except as provided in subparagraph 2., an applicant must hold the educational credentials required for licensure of a funeral director under s. 497.373(1)(d).

2. An applicant who has not completed the educational credentials required for a funeral director license is eligible for licensure as a funeral director intern if the applicant:

a. Holds an associate degree or higher in any field from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education.

b. Is currently enrolled in and attending a licensing

authority-approved course of study in mortuary science or funeral service arts required for licensure of a funeral director under s. 497.373(1)(d)2.

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

Section 8. Subsection (3) is added to section 497.376, Florida Statutes, to read:

497.376 License as funeral director and embalmer permitted.—

(3) An applicant for a combination license by endorsement as a funeral director and embalmer under s. 497.373 and s. 497.369, respectively, is not required to meet any educational or testing requirements other than those in ss. 497.373(2)(b) and 497.369(4).

Section 9. Paragraph (a) of subsection (2) of section 497.377, Florida Statutes, is amended to read:

497.377 Combination funeral director and embalmer internships.—

(2)(a) An applicant who has not completed the educational credentials required for a combination license as both funeral director and embalmer is eligible for licensure as a combination funeral director and embalmer intern if the applicant:

1. Holds an associate degree or higher in any field from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education; or

2. Is currently enrolled in and attending a college

accredited by the American Board of Funeral Service Education (ABFSE) in a course of study in mortuary science accredited by ABFSE.

~~2. Has completed at least 75 percent of the course of study in mortuary science as certified by the college in which the applicant is currently enrolled.~~

~~3. Has taken and received a passing grade in a college credit course in mortuary law or funeral service law and has taken and received a passing grade in a college credit course in ethics.~~

Section 10. Present subsections (6) and (7) of section 497.386, Florida Statutes, are redesignated as subsections (7) and (8), respectively, and a new subsection (6) is added to that section, to read:

497.386 Storage, preservation, and transportation of human remains.—

(6) If any human remains have been in the lawful possession of any licensee or licensed facility for 90 days or more, and the legally authorized person of the decedent fails, neglects, or refuses to direct the disposition, the licensee or licensed facility may dispose of the human remains. Any licensee or licensed facility who disposes of human remains pursuant to this subsection may not be held liable for any action arising out of such disposal.

Section 11. Paragraph (b) of subsection (7) of section 497.459, Florida Statutes, is amended to read:

497.459 Cancellation of, or default on, preneed contracts; required notice.—

(7) NOTICE TO PURCHASER OR LEGALLY AUTHORIZED PERSON.—

(b)1. The notice in paragraph (a) must be provided by certified mail, registered mail, or permitted delivery service~~, return receipt requested~~, to the last known e-mail or mailing address of the purchaser or the beneficiary's legally authorized person, whichever is applicable, as provided to the preneed licensee. If the notice is returned as undeliverable within 30 calendar days after the preneed licensee sent the notice, the trustee must ~~shall~~ perform a diligent search and inquiry to obtain a different e-mail or mailing address for the purchaser or the beneficiary's legally authorized person, whichever is applicable. The board may adopt rules to implement this subparagraph ~~For purposes of this subparagraph, any address known and used by the purchaser or the beneficiary's legally authorized person, whichever is applicable, for sending regular mailings or other communications from the purchaser or the beneficiary's legally authorized person, whichever is applicable, to the preneed licensee or any address produced through a current address service or searchable database shall be included with other addresses produced from the diligent search and inquiry, if any. If the trustee's diligent search and inquiry produces an address different from the notice address, the trustee shall mail a copy of the notice by certified mail, registered mail, or permitted delivery service, return receipt requested, to any and all addresses produced as a result of the diligent search and inquiry~~.

2. If the purchaser or the beneficiary's legally authorized person, whichever is applicable, fails to respond to such notice within 120 days after delivery of the last mailed notice under subparagraph 1., the funds held in trust must be distributed in

accordance with the terms of the preneed contract, the trust agreement, and any applicable provisions of chapter 717.

Section 12. Section 497.602, Florida Statutes, is amended to read:

497.602 Direct disposers; barring applications and licenses~~, license required; licensing procedures and criteria; regulation~~.~~—~~Effective July 1, 2026, applications may not be submitted to, and licenses may not be issued by, the department for direct disposers. However, a person licensed as a direct disposer before July 1, 2026, may continue to practice as such, provided the person continues to renew their direct disposer license pursuant to s. 497.603.

~~(1) LICENSE REQUIRED.—Any person who is not a licensed funeral director and who engages in the practice of direct disposition must be licensed pursuant to this section as a direct disposer.~~

~~(2) APPLICATION PROCEDURES.—~~

~~(a) A person seeking licensure as a direct disposer shall apply for such licensure using forms prescribed by rule.~~

~~(b) The application shall require the name, residence address, date and place of birth, and social security number of the applicant.~~

~~(c) The application may require information as to the educational and employment history of the applicant.~~

~~(d) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142.~~

~~(e) The application shall require the applicant to disclose whether the applicant has ever had a license or the authority to~~

~~practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.~~

~~(f) The applicant shall submit fingerprints in accordance with s. 497.142.~~

~~(g) The application shall require the applicant to demonstrate that the applicant does, or will before commencing operations under the license, comply with all requirements of this chapter relating to the licensure applied for.~~

~~(h) The application shall be signed by the applicant.~~

~~(i) The application shall be accompanied by a nonrefundable fee of $300. The licensing authority may from time to time increase the fee by rule but not to exceed more than $500. A member of the United States Armed Forces, such member's spouse, and a veteran of the United States Armed Forces who separated from service within the 2 years preceding application for licensure are exempt from the application fee. To qualify for the application fee exemption, an applicant must provide a copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document that indicates such member is currently in good standing or such veteran was honorably discharged.~~

~~(3) ACTION CONCERNING APPLICATIONS. A duly completed application for licensure under this section, accompanied by the~~

~~required fees, shall be approved if the licensing authority determines that the following conditions are met:~~

~~(a) The applicant is a natural person at least 18 years of age and a high school graduate or equivalent.~~

~~(b) The applicant has taken and received a passing grade in a college credit course in mortuary law and has taken and received a passing grade in a college credit course in ethics.~~

~~(c) The applicant has completed a course on communicable diseases approved by the licensing authority.~~

~~(d) The applicant has passed an examination prepared by the department on the local, state, and federal laws and rules relating to the disposition of dead human bodies.~~

~~(e) The applicant does or will prior to commencing operations under the license comply with all requirements of this chapter relating to the license applied for.~~

~~(f) The applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters.~~

~~(4) ISSUANCE OF LICENSE.—Upon approval of the application by the licensing authority, the license shall be issued. The licensing authority shall recognize military-issued credentials relating to funeral and cemetery services for purposes of licensure as a direct disposer. A member of the United States Armed Forces and a veteran of the United States Armed Forces seeking licensure as a direct disposer under this section shall submit to the licensing authority a certification that the military-issued credential reflects knowledge, training, and experience substantially similar to the requirements of this chapter for licensure as a direct disposer. The licensing~~

~~authority shall adopt rules specifying forms and procedures to be used by members and veterans of the United States Armed Forces seeking licensure under this section. The licensing authority may conduct investigation and further inquiry of any person regarding any military-issued credential sought to be recognized.~~

Section 13. Section 497.604, Florida Statutes, is amended to read:

497.604 Direct disposal establishments, license required; prohibition of applications and licenses ~~licensing procedures and criteria; license renewal; regulation; display of license~~.—

(1) LICENSE REQUIRED.—A direct disposer may ~~shall~~ practice only at a direct disposal establishment which has been licensed under this section and which may be a cinerator facility licensed under s. 497.606. A ~~No~~ person may not open or maintain an establishment at which to engage in or hold herself or himself out as engaging in the practice of direct disposition unless such establishment is licensed pursuant to this section before July 1, 2026.

(2) APPLICATION AND LICENSING BARRED ~~PROCEDURES~~.—Effective July 1, 2026, applications may not be submitted to, and licenses may not be issued by, the department for direct disposal establishments. However, a person licensed as a direct disposal establishment before July 1, 2026, may continue to practice as such, provided the person continues to renew his or her direct disposal establishment license pursuant to subsection (3).

~~(a) A person seeking licensure as a direct disposal establishment shall apply for such licensure using forms prescribed by rule.~~

~~(b) The application shall require the name, business address, residence address, date and place of birth or incorporation, and business phone number, of the applicant and all principals of the applicant. The application shall require the applicant's social security number or, if the applicant is an entity, its federal tax identification number.~~

~~(c) The application shall name the licensed direct disposer or licensed funeral director acting as the direct disposer in charge of the direct disposal establishment.~~

~~(d) The application may require information as to the applicant's financial resources.~~

~~(e) The application may require information as to the educational and employment history of an individual applicant; and as to applicants that are not natural persons, the business and employment history of the applicant and principals of the applicant.~~

~~(f) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142.~~

~~(g) The application shall require the applicant to disclose whether the applicant or any of the applicant's principals including its proposed supervising licensee has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action~~

~~against the license.~~

~~(h) The applicant shall submit fingerprints in accordance with s. 497.142.~~

~~(i) The application shall require the applicant to demonstrate that the applicant does, or will before commencing operations under the license, comply with all requirements of this chapter relating to the licensure applied for.~~

~~(j) The application shall be signed in accordance with s. 497.141(12).~~

~~(k) The application shall be accompanied by a nonrefundable fee of $300. The licensing authority may from time to time by rule increase the fee but not to exceed $500.~~

~~(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fee, shall be approved if the licensing authority determines that the following conditions are met:~~

~~(a) The applicant is a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company.~~

~~(b) The applicant does or will prior to commencing operations under the license comply with all requirements of this chapter relating to the license applied for. The applicant shall have passed an inspection prior to issuance of a license under this section, in accordance with rules of the licensing authority.~~

~~(c) The applicant and the applicant's principals are of good character and have no demonstrated history of lack of trustworthiness or integrity in business or professional matters.~~

~~(4) ISSUANCE OF LICENSE.—Upon approval of the application by the licensing authority, the license shall be issued.~~

~~(5) PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the direct disposal establishment business by, among other means, the entry of new licensees into that business. To facilitate issuance of licenses concerning applications judged by the licensing authority to be borderline as to qualification for licensure, the licensing authority may issue a new license under this section on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 24 months of licensure, to ensure the licensee's responsibleness, competency, financial stability, and compliance with this chapter. However, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 24 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure under this chapter and institute proceedings for revocation of licensure.~~

(3) ~~(6)~~ RENEWAL OF LICENSE.—A direct disposal establishment license shall be renewed biennially pursuant to schedule, forms, and procedures and upon payment of a fee of $200. The licensing authority may from time to time increase the fee by rule but not to exceed $400.

(4) ~~(7)~~ CHANGES SUBSEQUENT TO LICENSURE.—Each licensee under this section shall provide notice as required by rule prior to

any change in location or control of the licensee or licensed person in charge of the licensee's operations. A change in control is subject to approval by the licensing authority and to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities at the new location, pursuant to rules of the licensing authority, has been conducted and passed.

(5)~~(8)~~ SUPERVISION OF FACILITIES.—

(a) Each direct disposal establishment shall have a funeral director in charge, subject to s. 497.380(7). However, a licensed direct disposer may continue acting as the direct disposer in charge if, as of September 30, 2010:

1. The direct disposal establishment and the licensed direct disposer both have active, valid licenses.

2. The licensed direct disposer is currently acting as the direct disposer in charge of the direct disposal establishment.

3. The name of the licensed direct disposer was included~~, as required in paragraph (2)(c),~~ in the direct disposal establishment's most recent application for ~~issuance or~~ renewal of its license or was included in the establishment's notice of change provided under subsection (4)~~(7)~~.

(b) The funeral director in charge or direct disposer in charge of a direct disposal establishment must be reasonably available to the public during normal business hours for the establishment. The funeral director in charge or direct disposer in charge of the establishment is responsible for making sure the facility, its operations, and all persons employed in the

facility comply with all applicable state and federal laws and rules. A funeral director in charge, with appropriate, active licenses, may serve as a funeral director in charge for not more than a total of two of the following: funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities, as long as the two locations are not more than 75 miles apart as measured in a straight line.

(6)~~(9)~~ REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.—

(a) There shall be established by rule standards for direct disposal establishments, including, but not limited to, requirements for refrigeration and storage of dead human bodies.

(b) The practice of direct disposition must be engaged in at a fixed location of at least 625 contiguous interior ~~contiguous~~ square feet, to be used solely for the business of the establishment, and must maintain or make arrangements for suitable capacity for the refrigeration and storage of dead human bodies handled and stored by the establishment.

(c) Each direct disposal establishment is ~~shall~~ at all times ~~be~~ subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department, the Department of Health, and local government inspectors and by their agents. Rules must ~~There shall~~ be adopted to ~~rules which~~ establish such inspection requirements. ~~There shall be adopted by rule of~~ The licensing authority shall charge an annual inspection fee not to exceed $300, payable ~~upon issuance of license and~~ upon each renewal of such license.

(d) Each direct disposal establishment must display at the public entrance the name of the establishment and the name of

the licensed direct disposer or licensed funeral director acting as the direct disposer in charge of the establishment. A direct disposal establishment must transact its business under the name by which it is licensed.

(e) A direct disposal establishment may not be operated at the same location as any other direct disposal establishment or funeral establishment unless such establishments were licensed as colocated establishments on July 1, 2000.

(f) A direct disposal establishment shall retain all signed contracts for a period of at least 2 years.

(7) ~~(10)~~ DISPLAY OF LICENSE.—

(a) A direct disposal ~~disposer~~ establishment and each direct disposer, or funeral director acting as a direct disposer, employed at the establishment must display their current licenses in a conspicuous place within the establishment in such a manner as to make the licenses visible to the public and to facilitate inspection by the licensing authority. If a licensee is simultaneously employed at more than one location, the licensee may display a copy of the license in lieu of the original.

(b) Each licensee shall permanently affix a photograph taken of the licensee within the previous 6 years to each displayed license issued to that licensee as a direct disposer or funeral director acting as a direct disposer.

Section 14. Paragraph (a) of subsection (3) of section 497.607, Florida Statutes, is amended to read:

497.607 Cremation; procedure required.—

(3)(a) With respect to any person who intends to provide for the cremation of the deceased, if~~,~~ after 90 ~~a period of 120~~

days from the time of cremation the cremated remains have not been claimed, the funeral or direct disposal establishment may dispose of the cremated remains. Such disposal includes ~~shall include~~ scattering them at sea or placing them in a licensed cemetery scattering garden or pond or in a church columbarium or otherwise disposing of the remains as provided by rule.

Section 15. Subsection (5) of section 627.404, Florida Statutes, is amended to read:

627.404 Insurable interest; personal insurance.—

(5) A contract of insurance upon a person, other than a policy of prepaid funeral contract, group life insurance or group or blanket accident, health, or disability insurance, may not be carried out ~~effectuated~~ unless, on or before the time of entering into such contract, the person insured, having legal capacity to contract, applies for or consents in writing to the contract and its terms, except that any person having an insurable interest in the life of a minor younger than 15 years of age or any person upon whom a minor younger than 15 years of age is dependent for support and maintenance may obtain ~~effectuate~~ a policy of insurance on the minor.

Section 16. For the purpose of incorporating the amendment made by this act to section 497.263, Florida Statutes, in a reference thereto, subsection (5) of section 497.260, Florida Statutes, is reenacted to read:

497.260 Cemeteries; exemption; investigation and mediation.—

(5) Any religious-institution-owned cemetery exempt under subsection (1), except those cemeteries qualifying under paragraph (1)(d), which becomes affiliated with a commercial

enterprise must meet the requirements of s. 497.263.

Section 17. This act shall take effect July 1, 2026.

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 632
INTRODUCER:	Senator DiCeglie
SUBJECT:	Transportation Network Company, Driver, and Vehicle Owner Insurance
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Pre-meeting**
2.			TR	
3.			RC	

I. Summary:

SB 632 reduces transportation network company (TNC) and TNC driver insurance requirements during the period when a TNC driver has accepted a prearranged ride but a rider does not occupy the TNC vehicle. The insurance requirements are reduced from at least $1 million in primary automobile liability coverage for death, bodily injury, and property damage to primary automobile liability coverage with limits of at least $50,000 for death and bodily injury per person subject to a limit of at least $100,000 per incident and limits of at least $25,000 for property damage.

The bill also requires the transportation network company to meet the statutory TNC insurance requirement unless the driver maintains a policy that does not exclude coverage that would meet the statutory TNC insurance requirements. Many private passenger automobile insurance policies have a livery exclusion which excludes coverage when the covered automobile is used to transport people or property for a fee.

The bill's effective date is July 1, 2026.

II. Present Situation:

Transportation Network Companies (TNCs)

Transportation network companies (TNCs) are businesses that use a digital network to connect riders with drivers who provide prearranged rides.[1] Examples of TNCs include Uber and Lyft. Chapter 627.748, F.S., governs the operation of TNCs, including their insurance coverage requirements.

[1] Section 627.748(1)(e), F.S.

A "TNC vehicle" is defined as a vehicle that is used by a TNC driver to offer or provide a prearranged ride and is owned, leased, or otherwise authorized to be used by the TNC driver. A vehicle that is let or rented to another for consideration may be used as a TNC vehicle. A taxicab or jitney is not a TNC vehicle.[2]

Statute also defines the term "prearranged ride" as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network[3] controlled by a TNC, continuing while the TNC driver transports the requesting rider, and ending when the last requesting rider departs from the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail[4] service and does not include ridesharing,[5] carpool,[6] or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.[7]

TNC Coverage Requirements

Current law requires a TNC driver, or a TNC on behalf of the TNC driver, to maintain auto insurance that recognizes the TNC driver as a TNC driver or an individual who uses the vehicle to transport riders for compensation and covers the TNC driver while the TNC driver is logged on to the digital network or engaged in a prearranged ride.[8] Different insurance requirements apply for these two scenarios. The required coverage is significantly higher for TNC drivers engaged in a prearranged ride.

The following coverage requirements apply while a TNC driver is logged on to the digital network but not engaged in a prearranged ride:[9]

- Primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage.
- Personal injury protection benefits that meet the minimum coverage amounts required under sections 627.730-627.7405, F.S.[10]

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[2] Section 627.748(1)(h), F.S.
[3] "Digital network" is defined as any online-enabled technology application service, website, or system offered or used by a TNC which enables the prearrangement of riders with TNC drivers. Section 627.748(1)(a), F.S.
[4] "Street hail" is defined as an immediate arrangement on a street with a driver by a person using any method other than a digital network to seek immediate transportation. Section 627.748(1)(d), F.S.
[5] Section 341.031(9)(a), F.S., defines "ridesharing" as an arrangement between persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common destination. For purposes of ridesharing, employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall be deemed to terminate when the employee leaves the employer's place of employment, excluding areas not under the control of the employer. However, an employee shall be deemed to be within the course of employment when the employee is engaged in the performance of duties assigned or directed by the employer, or acting in the furtherance of the business of the employer, irrespective of location.
[6] Section 450.28(3), F.S., defines "carpool" as an arrangement made by the workers using one worker's own vehicle for transportation to and from work and for which the driver or owner of the vehicle is not paid by any third person other than the members of the carpool.
[7] Section 627.748(1)(b), F.S.
[8] Section 627.748(7)(a), F.S.
[9] Section 627.748(7)(b), F.S.
[10] Sections 627.730-627.7405, F.S., are the "Florida Motor Vehicle No-Fault Law." The law requires Florida motor vehicle owners to maintain Personal Injury Protection (PIP) insurance coverage.

- Uninsured and underinsured vehicle coverage as required by section 627.727, F.S.[11]

Current law applies the following coverage requirements while a TNC driver is engaged in a prearranged ride, both when connected to a rider but the rider is not yet in the vehicle and when the rider is in the vehicle:[12]

- A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage.
- Personal injury protection meeting the minimum coverage amounts required for a limousine under 627.730-627.7405, F.S.
- Uninsured and underinsured vehicle coverage as required by section 627.727, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 627.748(7), F.S., to reduce transportation network company (TNC) and TNC driver insurance requirements during the period when a TNC driver has accepted a prearranged ride but a rider does not yet occupy the TNC vehicle. The insurance requirements are reduced from at least $1 million in primary automobile liability coverage for death, bodily injury, and property damage to primary automobile liability coverage with limits of at least $50,000 for death and bodily injury per person subject to a limit of at least $100,000 per incident and limits of at least $25,000 for property damage.

Section 2 provides that the act takes effect July 1, 2026.

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.

[11] Section 627.727, F.S., provides uninsured and underinsured vehicle coverage requirements for all motor vehicle liability policies issued in Florida.
[12] Section 627.748(7)(c), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The reduction in the statutorily required minimum automobile liability insurance coverage limits imposed upon transportation network companies and TNC drivers for will reduce the costs incurred by TNCs and TNC drivers to procure such insurance, increase the likelihood that a TNC driver or TNC will be liable for extracontractual damages if negligently responsible for damages related to an automobile accident that occurs when the TNC driver is on-route to pick up a rider for a prearranged ride, and reduce the insurance proceeds that may be recovered by parties in other vehicles injured due to the negligence of a TNC or TNC driver that occurs when the TNC driver is on-route to pick up a rider for a prearranged ride.

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: 627.748

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator DiCeglie

18-00478-26 2026632__

A bill to be entitled

An act relating to transportation network company, driver, and vehicle owner insurance; amending s. 627.748, F.S.; revising automobile insurance requirements for transportation network companies, transportation network company drivers, and transportation network company vehicle owners; providing an effective date.

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

Section 1. Present paragraphs (c) through (i) of subsection (7) of section 627.748, Florida Statutes, are redesignated as paragraphs (d) through (j), respectively, a new paragraph (c) is added to that subsection, and paragraph (a) and present paragraphs (c), (d), and (h) of that subsection are amended, to read:

627.748 Transportation network companies.—

(7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE REQUIREMENTS.—

(a) Beginning July 1, 2026 ~~2017~~, a TNC driver or a TNC on behalf of the TNC driver shall maintain primary automobile insurance that:

1. Recognizes that the TNC driver is a TNC driver or otherwise uses a vehicle to transport riders for compensation; and

2. Covers the TNC driver while the TNC driver is logged on to the digital network of the TNC or while the TNC driver is engaged in a prearranged ride.

18-00478-26 2026632__

(c) The following automobile insurance requirements apply while a participating TNC driver has accepted a prearranged ride but a rider does not occupy the TNC vehicle:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(d) ~~(c)~~ The following automobile insurance requirements apply while a TNC driver is engaged in a prearranged ride and a rider occupies the TNC vehicle:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required

by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(e)~~(d)~~ The TNC shall maintain the required coverage under paragraphs (b), (c), and (d) unless the driver maintains a policy that does not exclude, pursuant to subsection (8), the required coverage under paragraph (b), paragraph (c), or paragraph (d). If the insurance maintained by the TNC driver ~~TNC driver's insurance~~ under paragraph (b), ~~or~~ paragraph (c), or paragraph (d) lapses, ~~has lapsed or does not provide the required coverage, the insurance maintained by~~ the TNC must provide the coverage required under this subsection, beginning with the first dollar of a claim, and have the duty to defend such claim.

(i)~~(h)~~ A TNC driver shall carry proof of coverage satisfying paragraphs (b), ~~and~~ (c), and (d) with him or her at all times during his or her use of a TNC vehicle in connection with a digital network. In the event of an accident, a TNC driver shall provide this insurance coverage information to any party directly involved in the accident or the party's designated representative, automobile insurers, and investigating police officers. Proof of financial responsibility may be presented through an electronic device, such as a digital phone application, under s. 316.646. Upon request, a TNC driver shall also disclose to any party directly involved in the

accident or the party's designated representative, automobile insurers, and investigating police officers whether he or she was logged on to a digital network or was engaged in a prearranged ride at the time of the accident.

Section 2. This act shall take effect July 1, 2026.

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 786
INTRODUCER:	Judiciary Committee and Senator Berman
SUBJECT:	Trusts
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	**Fav/CS**
2.	Moody	Knudson	BI	**Pre-meeting**
3.			RC	

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 786 amends the Florida Trust Code to create a summary procedure for trustee discharge that does not involve court proceedings. This procedure allows a trustee of an irrevocable trust to settle his or her accounts and be discharged of responsibilities and liabilities if no beneficiaries object. Current trustee discharge procedures require the approval of a court. The new procedure does not displace other discharge procedures in statute. If a beneficiary objects to the summary discharge of the trustee, the trustee must follow the current statutory discharge procedure.

The new summary discharge procedure is authorized if:

- The trust is irrevocable; and
- The trustee has substantially complied with the statutory requirements to provide information and accountings to trust beneficiaries.

To initiate the procedure, the trustee must provide trust beneficiaries, and potentially others, with:

- Disclosures relating to the trust assets, including a plan of distribution;
- Contact information for the trustee;
- A statement that the trust has terminated or that the trustee has resigned or has been removed; and
- A notice that claims against the trustee will be barred unless a beneficiary submits a written objection to the trustee within 60 days.

If the trustee does not receive a timely objection, the trustee is discharged upon completion of all distributions or transfers in accordance with the plan of distribution.

The bill applies to irrevocable trusts and trusts that become irrevocable after the bill becomes effective.

The bill becomes effective upon becoming law.

II. Present Situation:

Trusts are an estate planning tool often used to transfer property and protect assets while avoiding lengthy or costly probate proceedings. The Florida Trust Code, which became effective in 2007, is contained in ch. 736, F.S. It governs the creation of trusts and the fiduciary and administrative responsibilities of trustees to manage property held in trust for the benefit of others. The code also establishes the process whereby a trustee may be discharged of his or her responsibilities.

In its most basic form, a trust is a legally binding relationship in which a person who owns property gives that property to a second person to hold and manage for the benefit of a third person. The settlor is the person who originally owned the property and created the trust. The trustee is the person who holds legal little to the trust property and manages it in accordance with the powers and responsibilities established in the terms of the trust. A beneficiary is the person for whom the property is held and who benefits from the trust.[1]

Duties of a Trustee

Once a person accepts a trusteeship, he or she becomes the custodian of the trust and holds legal title to its assets. The trustee is required to administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries, as well as in compliance with the Trust Code.[2] A trustee must administer the assets of the trust "solely in the interests of the beneficiaries"[3] and take steps to protect the trust property.[4] Additionally, a trustee is required to keep clear, distinct, and accurate records of the administration of the trust.[5]

The statutes require a trustee to keep the qualified beneficiaries "reasonably informed" of the trust and its administration.[6] To meet this responsibility, a trustee provides a trust accounting to the beneficiaries. The accounting must be a "reasonably understandable report" from the date of the last accounting or, if there was none, from the date the trustee became accountable. In part, an accounting must show all cash and property transactions, a statement of compensation paid to the trustee and his or her agents, gains and losses, as well as receipts and disbursements. To the extent feasible, the accounting must identify and value trust assets and certain liabilities, receipts

[1] Restatement (Third) Trusts, s. 3, (2003) Settlor, Trust Property, Trustee, and Beneficiary; BLACK'S LAW DICTIONARY (12th ed. 2024); 55A FLA. JUR 2D TRUSTS s. 114 *Trustees, Generally* (2024).
[2] 55A Fla. Jur 2d Trusts s. 114 and s. 736.0801, F.S.
[3] Section 736.0802(1), F.S.
[4] Section 736.0809, F.S.
[5] Section 736.0810, F.S.
[6] Section 736.0813, F.S.

and disbursements, and a plan of distribution.[7] It is the responsibility of the trustee of an irrevocable trust to provide an accounting annually and upon the termination of the trust.[8]

Ending the Trustee Relationship Through Resignation or Removal

A trustee may resign according to the terms established in the trust document and upon providing notice to the cotrustees or, if there are none, to the successor trustee, or if there is none, by giving notice to the person who has the authority to appoint a successor trustee. Additionally, a trustee may also resign by giving at least 30 days' notice to the qualified beneficiaries, the settlor, if he or she is living, and all cotrustees, or with approval of a court. When a trustee resigns with court approval, the court may issue orders and impose conditions that are reasonably necessary for the protection of the trust property.[9] A settlor, cotrustee, or a beneficiary may request the court to remove a trustee or a trustee may be removed by the court upon the court's own initiative.[10]

When a Trustee is Discharged from Duty

When a trustee is discharged from the responsibilities of the trust, he or she is no longer responsible for the duties of administering the trust. Additionally, when the trustee is discharged, he or she is protected against future legal claims related to his or her actions while serving as trustee of the trust.

III. Effect of Proposed Changes:

The bill creates a summary procedure for a trustee of an irrevocable trust to be discharged of his or her duties and liabilities resulting from service as a trustee. The procedure avoids the need for court proceedings. However, if a beneficiary files a timely written objection, the process ends and the existing discharge proceedings must be followed.

When Discharge May Occur

A trustee who has substantially complied with his or her duties may obtain a settlement of accounts and be discharged when either of the following occurs 6 months after the trustee accepted the responsibility to serve:

- The trust terminates, or
- A trustee resigns or is removed from the trust.

Trust Disclosure Document

A trustee who is seeking settlement of his or her accounts and to be discharged of his or her duties must send a trust disclosure document[11] to the qualified beneficiaries and any cotrustee as well as the immediate successor trustee if the trust is not terminating.

[7] Section 736.08135, F.S.
[8] Section 736.0813(1)(d), F.S.
[9] Section 736.0705, F.S.
[10] Section 736.0706, F.S.
[11] Section 736.1008(4)(c), F.S., provides that a trust disclosure document means a trust accounting or any other written report of the trustee or a trust director. It adequately discloses a matter if the document provides sufficient information so that a beneficiary knows of a claim or reasonably should have inquired into the existence of a claim with respect to that matter.

Contents

The trust disclosure document must contain the following:

- The trustee's name, mailing address, telephone number, and e-mail address.
- A distribution plan which includes: a schedule of the trust's assets that are reasonably anticipated to be disbursed or distributed by the trustee; the amount of any debts, expenses, and taxes to be paid by the trustee; and any reasonable reserve to be held by the trustee.
- A trust accounting if the trustee's duty to provide an account has not been waived. The accounting must cover the time period for which an accounting has not been previously provided to the qualified beneficiaries of the trust.
- A statement that the trust has either terminated or that the trustee has resigned or been removed.
- A notice that contains substantially the following language in at least 12-point type:

> "NOTICE: Any claim or cause of action you might have against the trustee arising from any matter disclosed in a trust disclosure document may be barred unless a written statement objecting is received by the trustee from you within 60 days after your receipt of this trust disclosure document and notice. If you have questions, please consult your attorney."

Additional Responsibility to Notify

The trustee must also send the trust disclosure document to any person he or she reasonably believes would be affected by the trust disclosure document. The document and any objections must be sent in a manner authorized in s. 736.0109, F.S., except by posting on an electronic account or website.

When This Procedure May Not Be Used

If a trustee receives a written objection within 60 days after sending the trust disclosure document, this process does not result in the settlement of accounts or the discharge of the trustee's duties and liabilities. It is not necessary that the objection state the grounds on which the objection is based nor must the objection be in any particular form.

Discharge of the Trustee from Liability and Claims

If the trustee does not receive a timely written objection, he or she is discharged when all of the distributions or transfers are made in accordance with the plan of distribution. The trustee is discharged from all liability and claims that may arise from any matter that was adequately disclosed in the trust disclosure document, including a claim that he or she failed to provide information and accountings to beneficiaries as required by s. 736.0813, F.S. The discharge of the trustee's liability has the same effect as if a court had entered a final order approving that act or the omitted act.

Waiver of the Right to Object

A waiver of the right to object under this bill is treated as the expiration of the 60-day period without objection. Stated slightly differently, a beneficiary is considered to have approved the document unless his or her written objection is received by the trustee within the 60-day time frame.

Applicability

The act applies to all trusts that are irrevocable or become irrevocable on or after the effective date of the bill.

The bill 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.

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:

This summary procedure will likely reduce or avoid the cost for legal, accounting, and administrative fees currently associated with trust administrations. These savings will be passed on to trust beneficiaries who are currently required to absorb these costs in judicial proceedings.

C. Government Sector Impact:

Because this process does not involve a judicial proceeding, it will likely reduce the amount of time a judge and court staff would otherwise spend to discharge a trustee.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates s. 736.10081 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 Judiciary on February 3, 2026:
The committee substitute makes two technical changes to the bill. It adds the phrase "nonjudicial" to the catchline in s. 736.10081, F.S., to more accurately describe the section and removes the repetitive word "after" on line 31.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Berman

590-02448-26 2026786c1

A bill to be entitled

An act relating to trusts; creating s. 736.10081, F.S.; authorizing a trustee to obtain a settlement of his or her accounts and be discharged under certain circumstances; requiring a trustee seeking settlement and discharge to send a trust disclosure document to specified persons; requiring that certain information be included in the trust disclosure document; requiring that the trust disclosure document and any objections be sent with a certain notice; providing applicability; providing that an objection need not state the grounds for the objection; providing that a trustee is discharged upon completion of distributions or transfers if no timely written objections are received and is discharged from all liability and claims arising out of any matter disclosed in the trust disclosure document; providing that a waiver of the right to object is treated as an expiration of the timeframe to object; providing construction; providing applicability; providing an effective date.

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

Section 1. Section 736.10081, Florida Statutes, is created to read:

736.10081 Nonjudicial settlement and discharge of a trustee; disclosure; objections.—

(1) A trustee who is in substantial compliance with the duty to inform and account under s. 736.0813 may obtain a

590-02448-26 2026786c1

settlement of his or her accounts and be discharged pursuant to this section when either of the following occurs 6 months after the trustee's acceptance:

(a) The trust terminates.

(b) A trustee resigns or is removed from the trust.

(2) A trustee seeking settlement and discharge pursuant to this section must send to the trust's qualified beneficiaries and any cotrustee, and the immediate successor trustee if the trust is not terminating, a trust disclosure document as defined in s. 736.1008(4) which contains all of the following:

(a) The name, mailing address, telephone number, and e-mail address of the trustee seeking discharge.

(b) A plan of distribution which includes all of the following:

1. A schedule of the assets reasonably anticipated to be disbursed or distributed by the trustee.

2. The amount of any debts, expenses, and taxes to be paid by the trustee.

3. Any reasonable reserve to be held by the trustee.

(c) If the trustee's duty to account has not been waived, a trust accounting as defined in s. 736.1008(4) for the period for which an accounting has not been previously provided to the qualified beneficiaries of the trust.

(d) A statement that the trust has terminated or that the trustee has resigned or has been removed.

(e) A notice with substantially the following language in at least 12-point type:

"NOTICE: Any claim or cause of action you might have

against the trustee arising from any matter disclosed in a trust disclosure document may be barred unless a written statement objecting is received by the trustee from you within 60 days after your receipt of this trust disclosure document and notice. If you have questions, please consult your attorney."

(3) The trustee shall also send the trust disclosure document described in subsection (2) to any other person whom the trustee reasonably believes would be affected by the trust disclosure document. The trust disclosure document and any objections must be sent with the notice requirements of s. 736.0109, except that s. 736.0109(3) does not apply.

(4) This section does not apply if the trustee receives a written objection within 60 days after sending the trust disclosure document. An objection does not need to state the grounds for the objection or be in any particular form.

(5) If the trustee does not receive a timely written objection, the trustee is discharged upon completion of all distributions or transfers in accordance with the plan of distribution and is discharged from all liability and claims arising from any matter adequately disclosed in the trust disclosure document, including any claim that the trustee failed to inform and account pursuant to s. 736.0813, with the same effect as if the court had entered a final order approving that act or omission.

(6) A waiver of the right to object pursuant to this section is treated as the expiration of the 60-day period without objection.

(7) This section is in addition to, and not a replacement of, rights of a trustee to otherwise settle the trustee's accounts.

Section 2. This act applies to all trusts that are irrevocable or become irrevocable on or after the effective date of this act.

Section 3. This act shall take effect upon becoming a law.

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 1110
INTRODUCER:	Senators Truenow and Smith
SUBJECT:	Coverage for Orthotics and Prosthetics Services
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

SB 1110 modifies the optional Medicaid coverage for durable medical equipment to include orthotics and prosthetics. The bill authorizes the Agency for Health Care Administration (AHCA) to provide Medicaid coverage payment for certain orthotics and prosthetics, all materials and components necessary to use them, instructions on their use, and any necessary repairs or replacements. AHCA is required to seek federal approval and amend contracts as necessary to implement the change made to Medicaid coverage in the bill.

Further, the bill modifies the coverage mandate for orthotics and prosthetics if certain conditions are met for the following types of insurance coverage beginning on or after July 1, 2026:

- An individual accident and health insurance policy ("individual insurance policy"),
- A group, blanket, and franchise health insurance ("group insurance policy"), and
- A health maintenance organization (HMO) contract.

The bill provides that an insurer or HMO may require supporting documentation from an insured's provider to confirm the need for a replacement that is less than 3 years old. An insurer or HMO may not deny a claim that is medically necessary to restore a physical function for an insured with a disability which would be covered by a nondisabled person. The bill requires insurers and HMOs to submit an annual report to the Office of Insurance Regulation (OIR) with specified information.

See Section IV. For Fiscal Impact.

The bill is effective July 1, 2026.

II. Present Situation:

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.[1] As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[2] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[3] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[4] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.[5]

The Agency for Health Care Administration (AHCA) regulates the quality of care by health maintenance organizations (HMO) under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the AHCA.[6] As part of the certificate process used by the agency, an HMO must provide information to demonstrate that the HMO can provide quality of care consistent with the prevailing standards of care.[7]

Florida's Medicaid Program[8]

Administration of the Program

The Agency for Health Care Administration (AHCA) is the single state agency responsible for the administration of the Florida Medicaid program, authorized under Title XIX of the Social Security Act (SSA). This authority includes establishing and maintaining a Medicaid state plan approved by the federal Centers for Medicare and Medicaid Services and maintaining any Medicaid waivers needed to operate the Florida Medicaid program as directed by the Florida Legislature.

A Medicaid state plan is an agreement between a state and the federal government describing how that state administers its Medicaid programs; it establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements. State Medicaid programs may request a formal

[1] Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the Financial Services Commission appoints the commissioner of the Office of Insurance Regulation.
[2] Section 624.418, F.S.
[3] Section 624.316(1)(a), F.S.
[4] Section 624.318(2), F.S.
[5] Section 624.3161, F.S.
[6] Section 641.21(1), F.S.
[7] Section 641.495, F.S.
[8] Agency for Healthcare Administration, *2026 Agency Legislative Bill Analysis Agency for Healthcare Administration for SB 1110*, 8, Jan. 8, 2026 (on file with Senate Committee on Banking and Insurance) (hereinafter cited as "2026 AHCA Agency Analysis for SB 1110).

waiver of the requirements codified in the SSA. Federal waivers give states flexibility not afforded through their Medicaid state plan.

The structure of each state's Medicaid program varies and what states must pay for is largely determined by the federal government, as a condition of receiving federal funds. Federal law sets the amount, scope, and duration of services offered in the program, among other requirement. The federal government sets the minimum mandatory populations and minimum mandatory benefits to be covered in every state Medicaid program. States can add optional benefits, with federal approval. Florida has added many optional benefits including prescription drugs, ambulatory surgical center services, and dialysis. Florida does not cover all low-income Floridians.

Medicaid services can be delivered both fee-for-services (FFS) or through a managed care delivery model. In FFS, providers contract directly with the AHCA to provide services, and bill and get reimbursed directly by the AHCA. In a managed care delivery model, managed care plans contract with the AHCA and are paid a per member per month capitated payment for providing all of an enrollee's medical, dental, or home and community-based care, depending on the type of managed care plan.

In Florida, most Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program. The SMMC program has three components: Managed Medical Assistance (MMA), Long-Term Care (LTC), and Dental. Florida's SMMC program benefits are authorized through federal waivers and are specifically required by the Florida Legislature in ss. 409.973 and 409.98, F.S. The SMMC benefits are a robust health care package covering acute, preventive, behavioral health, prescribed drugs, LTC services and dental services.

Mandatory Medicaid Coverage

Section 409.905, F.S., relating to mandatory Medicaid services, provides that the AHCA may make payments for delineated services, which are required of the state. Medicaid providers provide services to recipients who are determined to be eligible on the dates the services were provided. Currently, the Florida Medicaid program covers several mandatory services, such as:

- Advanced practice registered nurse services.[9]
- Home health care services.[10]
- Covered hospital inpatient services.[11]
- Hospital outpatient services.[12]
- Independent Laboratory Services.[13]
- Early and periodic screening, diagnosis, and treatment services for children under 21, including durable medical equipment determined to be medically necessary for the treatment, correction, or amelioration the problem.[14]

[9] Section 409.905(1), F.S.
[10] Section 409.905(4), F.S.
[11] Section 409.905(5), F.S.
[12] Section 409.905(6), F.S.
[13] Section 409.905(7), F.S.
[14] Section 409.905(2), F.S.

Optional Services

Florida law authorizes AHCA to make payments for services which are optional to the state and are provided by Medicaid providers to recipients who are determined to be eligible on the dates the services were provided.[15] Some of the optional services covered include:

- Adult dental care.[16]
- Chiropractic services.[17]
- Community mental health services.[18]
- Durable medical equipment.[19]

Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage[20]

AHCA's Durable Medical Equipment and Medical Supply Services are available through both the SMMC program and FFS delivery system. Florida provides several durable medical equipment, such as:

- Custom and specialized equipment when a less costly alternative is not available to fulfill the recipient's need.
- Recipients under the age of 21 years residing in a skilled nursing facility may receive customized orthotic and prosthetic devices.
- Dynamic splinting.
- Orthopedic footwear.
- Orthotic and prosthetic devices which cover splints and passive motion devices, including sheepskin pads.
- Orthotic and prosthetic equipment.
- Maintenance and repair of orthotic and prosthetic durable medical equipment that meets certain criteria.
- Certain early, periodic, screening, diagnostic, and treatment services that are medically necessary.
- Certain physical therapy and occupational therapy services.

Patient Protection and Affordable Care Act

Essential Benefits

Under the Patient Protection and Affordable Care Act (PPACA),[21] all non-grandfathered health plans in the non-group and small-group private health insurance markets must offer a core package of health care services known as the essential health benefits (EHBs). While the PPACA does not specify the benefits within the EHB, it provides 10 categories of benefits and services

[15] Section 409.906, F.S.
[16] Section 409.906(1), F.S.
[17] Section 409.906(7), F.S.
[18] Section 409.906(8), F.S.
[19] Section 409.906(10), F.S. (providing the AHCA may authorize and pay for certain durable medical equipment and supplies provided to a Medicaid recipient as medically necessary).
[20] 2026 AHCA Agency Analysis for SB 1110 at 4-5.
[21] Patient Protection and Affordable Care Act of 2010. Pub. L. No. 111-141, as amended.

that must be covered and it requires the Secretary of Health and Human Services to further define the EHB.[22]

The 10 EHB categories are:
- Ambulatory patient services.
- Emergency services.
- Hospitalization.
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment.
- Prescription drugs.
- Rehabilitation and habilitation services and devices.
- Laboratory services.
- Preventive and wellness services and chronic disease management.
- Pediatric services, including oral and vision care.[23]

The PPACA requires each state to select its own reference benchmark plan as its EHB benchmark plan that all other health plans in the state use as a model. Beginning in 2020, states could choose a new EHB plan using one of three options, including: selecting another's state benchmark plan; replacing one or more categories of EHB benefits; or selecting a set of benefits that would become the State's EHB benchmark plan.[24] Florida selected its EHB plan before 2012 and has not modified that selection.[25]

Individual Insurance Policies

Florida law requires individual insurance policies to comply with several requirements, such as required provisions,[26] limits on preexisting conditions,[27] and claims processing.[28] There are several provisions that require minimum mandatory coverage for certain services, such as mammograms,[29] diabetes treatment services,[30] and osteoporosis[31] that meet certain criteria. Any health insurance policy that provides coverage for mastectomies must also provide coverage for prosthetic devices and breast reconstructive surgery incident to the mastectomy.[32]

[22] 45 CFR 156.100. et seq.
[23] 45 CFR 156.110
[24] Centers for Medicare and Medicare Services, *Marketplace – Essential Health Benefits,* available at https://www.cms.gov/marketplace/resources/data/essential-health-benefits (last reviewed Jan. 31, 2026).
[25] Centers for Medicare and Medicaid Services, *Information on Essential Health Benefits (EHB) Benchmark Plans,* Florida State Required Benefits, available at https://downloads.cms.gov/ (last viewed on Jan. 31, 2026).
[26] Section 627.605, F.S.
[27] Section 627.6046, F.S.
[28] *See* ss. 627.610 and 627.611, F.S.
[29] Section 627.6418, F.S.
[30] Section 627.6408, F.S.
[31] Section 627.6409, F.S.
[32] Section 627.6417(1), F.S. (providing the coverage for prosthetic devices and breast reconstructive surgery is subject to any deductible and coinsurance conditions and all other terms and conditions applicable to other benefits).

Group Insurance Policies

Group health insurance is health insurance covering groups of persons under a master group health insurance policy issued to specified groups, such as employee groups.[33] Group coverage does not apply to certain types of policies, such as auto medical payments and workers compensation.[34] Similar to individual insurance policies, there are several provisions that require minimum mandatory coverage for certain services, such as mammograms,[35] diabetes treatment services,[36] and osteoporosis[37] that meet certain criteria. Any health insurance policy that provides coverage for mastectomies must also provide coverage for prosthetic devices and breast reconstructive surgery incident to the mastectomy.[38]

HMO Contracts

"Health maintenance contract" means any contract entered into by a health maintenance organization with a subscriber or group of subscribers to provide coverage for comprehensive health care services in exchange for a prepaid per capita or prepaid aggregated fixed sum.[39] An health maintenance organization[40] (HMO) that issues a health insurance contract must renew or continue in force such coverage at the option of the contract holder. There are provisions that require minimum mandatory coverage for certain services, such as mammograms[41] and certain developmental disabilities.[42] Similar to individual and group insurance policies, a health maintenance contract that provides coverage for mastectomies must also provide coverage for prosthetic devices and breast reconstructive surgery incident to the mastectomy.[43]

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[33] Sections 627.652 627.653, F.S.
[34] Section 627.6513, F.S.
[35] Section 627.6613, F.S.
[36] Section 627.65745, F.S.
[37] Section 627.6691, F.S.
[38] Section 627.6612(1), F.S. (providing the coverage for prosthetic devices and breast reconstructive surgery is subject to any deductible and coinsurance conditions and all other terms and conditions applicable to other benefits).
[39] Section 641.19(11), F.S.
[40] Section 641.19(12), F.S., defines "health maintenance organization" as any organization authorized under part I under ch. 641, F.S., which: (a) Provides, through arrangements with other persons, emergency care, inpatient hospital services, physician care including care provided by physicians licensed under chs. 458, 459, 460, and 461, F.S., ambulatory diagnostic treatment, and preventive health care services; (b) Provides, either directly or through arrangements with other persons, health care services to persons enrolled with such organization, on a prepaid per capita or prepaid aggregate fixed-sum basis; (c) Provides, either directly or through arrangements with other persons, comprehensive health care services which subscribers are entitled to receive pursuant to a contract; (d) Provides physician services, by physician licensed under chs. 458, 459, 460, and 461, F.S., directly through physicians who are either employees or partners of such organization or under arrangements with a physician or any group of physicians; (e) If offering services through a managed care system, has a system in which a primary physician licensed under chs. 458, 459, 460, and 461, F.S., is designed for each subscriber upon request of a subscriber requesting service by a physician licensed under any of those chapters, and is responsible for coordinating the health care of the subscriber of the respectively requested service and for referring the subscriber to other providers of the same discipline when necessary.
[41] Section 641.31095, F.S.
[42] Section 641.31098, F.S.
[43] Section 641.31(32), F.S. (providing coverage for prosthetic devices and breast reconstructive surgery is subject to any deductible and coinsurance conditions).

Employee Health Care Access Act

The Employee Health Care Access Act is intended to promote health insurance availability for small employers[44] that employ an average of at least 1 but not more than 50 eligible employees on business days during the preceding calendar year.[45] To transact business in Florida, every small employer carrier must offer and issue all small employer health benefits plans on a guaranteed-issued basis to every eligible small employer that meets certain conditions.[46] The Financial Services Commission may establish rules to ensure that small employer carrier rates are reasonable and reflect objective differences in plan design.[47]

State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services through the Division of State Group Insurance (DSGI) administers the state group health insurance program (Program).[48] The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.[49] To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s.110.12315, F.S. For the 2025 Plan Year, which began January 1, 2026, the HMO plans under contract with DSGI are Aetna, Capital Health Plan, and United Healthcare, and the preferred provider organization (PPO) plan is Florida Blue.[50]

Study of Mandated Health Benefits

Section 624.215, F.S., directs 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 insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, must submit to the Agency for Health Care Administration and the legislative committees having jurisdiction a report which assesses the social and financial impacts of the proposed coverage.

The requirement is designed to assist the Legislature in determining whether mandating a particular coverage or the offer of such coverage is in the public interest through a systematic evaluation of a proposed mandated benefit's beneficial social and health consequences which may be in the public interest in contrast with the potential increased cost of health insurance premiums.

[44] Section 627.6699(2), F.S.
[45] Section 627.6699(3)(v), F.S.
[46] Section 627.6699(5)(b), F.S.
[47] Section 627.6699(6)(a), F.S.
[48] Section 110.123, F.S.
[49] A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.
[50] Department of Management Services, Division of State Group Insurance, *2024 Open Enrollment Brochure for Active State Employee Participants,* available at https://www.mybenefits.myflorida.com/beta_-_open_enrollment (last visited Jan. 31, 2026).

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

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

III. Effect of Proposed Changes:

Section 1 of SB 1110 expands Medicaid coverage to allow the Agency for Health Care Administration (AHCA) to authorize and pay for the following orthotics and prosthetics services:

- Orthoses[51] and prostheses.[52] Coverage must include payment for:
  - The model of an orthosis or a prosthesis which is deemed by the recipient's provider to be the most appropriate to meet the medical needs of the recipient to perform activities of daily living and essential job-related activities; and
  - When medically necessary, an orthosis or a prosthesis designed for physical or recreational activities that maximize the recipient's full body health and lower and upper limb function.
- All materials and components necessary to use the orthosis or prosthesis.

[51] Section 468.80(6), F.S., defines "orthosis" as any medical device used to provide support, correction, or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity but does not include the following assistive technology devices: upper extremity adaptive equipment used to facilitate the activities of daily living, including specialized utensils, combs, and brushes; finger splints; wheelchair seating and equipment that is an integral part of the wheelchair and not worn by the patient; elastic abdominal supports that do not have metal or plastic reinforcing stays; nontherapeutic arch supports; nontherapeutic accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; unmodified, over-the-counter nontherapeutic shoes; prefabricated nontherapeutic foot care products; durable medical equipment such as canes, crutches, or walkers; dental appliances; or devices implanted into the body by a physician. The term "accommodative" means designed with the primary goal of conforming to the individual's anatomy. The term "inlay" means any removable material upon which the foot directly rests inside the shoe and which may be an integral design component of the shoe. The term "musculoskeletal" and "neuromuscular" mean the systems of the body providing support and movement and include the skeletal, muscular, circulatory, nervous, and integumentary systems.

[52] Section 468.80(14), F.S., defines "prosthesis" as a medical device used to replace a missing appendage or other external body part, including an artificial limb, hand, or foot. It does not include surgically implanted devices or artificial eyes; dental appliances; ostomy products; or cosmetic devices such as breast protheses, eyelashes, or wigs.

- Instruction on the use of the orthosis or prosthesis.
- Any necessary repairs or replacement of the orthosis or prosthesis.

Section 2 requires AHCA to seek federal approval and amend contracts as necessary to implement the coverages provided in Section 1 of the bill.

Sections 3, 4, and 5 creates ss. 627.64085, 627.6614, and 641.31079, F.S., relating to an individual insurance policy; a group insurance policy; and a health maintenance organization contract, respectively, to revise the state's coverage mandates for orthotics and prosthetics beginning on or after July 1, 2026. Insurers and HMOs must provide coverage for the following:

- An orthosis or a prosthesis that is medically necessary for the insured to perform activities of daily living, essential job-related activities, and physical recreational activities, such as running, biking, swimming, strength training, and other activities that maximize the insured's or subscriber's full body health and lower and upper limb function.
- Any replacement of the orthosis or prosthesis, or part thereof, without regard to continuous use or useful lifetime restrictions, if the insured's or subscriber's provider determines that it is medically necessary due to one of the following:
  - A change in the physiological condition of the insured or subscriber.
  - An irreparable change in the condition of the orthosis or prosthesis, or any part of the condition.
  - A change in the condition of the orthosis or prosthesis, or any part of the condition, requires repairs that would cost more than 60 percent of the cost of a replacement orthosis or prosthesis or of the part requiring replacement.

An insurer or HMO may require supporting documentation from an insured's or subscriber's provider to confirm the need for a replacement for an orthosis or a prosthesis that is less than 3 years old.

An insurer or HMO may not deny a claim as a medically necessary intervention to restore physical function for an insured or subscriber with a disability which would otherwise be covered for a nondisabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same type of physical function affected.

Each insurer and HMO is required to submit an annual report beginning July 1, 2027, to the OIR detailing the total number of claims submitted for orthotics and prosthetics services in the previous plan year and the total number of such claims that were paid, including the amount paid.

Section 6 provides the bill is effective July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact on the private sector is indeterminate but, based on the additional coverage provided under the bill, a negative fiscal may impact the private sector if premiums are raised.

Insurers may incur indeterminate administrative costs for implementing provisions of the bill. Any increased costs which the insurers may incur due to the enhanced coverage requirement within the bill would likely be passed on to insureds.

C. Government Sector Impact:

The Division of State Group Insurance may incur an indeterminate negative fiscal impact to cover state employees for the additional coverage required in the bill.

The Agency for Healthcare Administration (AHCA) would need to amend its rules and managed care contracts to include the expanded coverage. The agency would need to determine whether additional treatment code would be required and, if so, then AHCA would need to update billing systems and set rates for the additional therapy treatment codes. These actions are part of AHCA's routine business practices and can be accomplished using existing resources.[53]

[53] 2026 AHCA Agency Analysis for SB 1110 at 7-8.

The AHCA would also be required to submit a state plan amendment to seek federal approval for the expanded access to services. This is part of AHCA's routine business practice and can be accomplished using existing resources.[54]

The AHCA reports that the bill will have a fiscal impact on the Medicaid program since it expands access to all orthotic and prosthetic devices for recipients of all ages and therapy treatment to adults that are currently ineligible for such devices. If additional therapy treatment codes are required for implementation, the addition of codes to the therapy fee schedule also will result in a fiscal impact.[55]

The AHCA reports in SFY 2024-25 there was $31,171,568 ($9,339,765 related to children and $21,835,680 related to adults) spent on services related to orthotic and prosthetic services related to the population below. It is estimated that a 1% increase in services cost would be $311,716. [56]

Estimated Impact for Children[57]		
% Increase to Service Cost	**Total Cost for Increase in Children**	**Impact to General Revenue**
Estimated Increase of 1% to Service Cost	$93,397.65	$41,209.38
Estimated Increase of 5% to Service Cost	$466,988.25	206,046.89
Estimated Increase of 10% to Service Cost	$933,976.51	$412,093.78
Estimated Increase of 25% to Service Cost	$2,334,941.26	$1,030,234.46

Estimated Impact for Adults[58]		
% Increase to Service Cost	**Total Cost for Increase in Adults**	**Impact to General Revenue**
Estimated Increase of 1% to Service Cost	$218,356.80	$96,344.48
Estimated Increase of 5% to Service Cost	$1,091,784.01	$481,722.40
Estimated Increase of 10% to Service Cost	$2,183,568.03	$963,444.80
Estimated Increase of 25% to Service Cost	$5,458,920.07	$2,408,612.01

The current unduplicated population potentially impacted by the proposal, based on diagnosis codes reported on claim submission, is 238,762 individuals, including 173,728 adults and 65,034 children.

VI. Technical Deficiencies:

None.

[54] *Id.* at 8.
[55] *Id.*
[56] *Id.* at 10.
[57] *Id.*
[58] *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.906
This bill creates the following sections of the Florida Statutes: 627.64085, 627.6614, and 641.31079

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.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (10) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who

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are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(10) DURABLE MEDICAL EQUIPMENT.—

(a) The agency may authorize and pay for certain durable medical equipment and supplies provided to a Medicaid recipient as medically necessary.

(b)1. As used in this paragraph, the term "eligible individual" means a Medicaid recipient who is:

a. A child younger than 18 years of age;

b. A dependent child as specified in s. 627.6562;

c. An individual 26 years of age or younger who remains covered under a parent's health insurance policy pursuant to s. 627.6562; or

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d. An individual with a developmental disability as defined in s. 393.063.

2. The agency may authorize and pay for all of the following orthotics and prosthetics services for eligible individuals:

a. Orthoses and prostheses as those terms are defined in s. 468.80. Coverage must include payment for:

(I) The model of an orthosis or a prosthesis which is deemed by the eligible individual's provider to be the most appropriate to meet the medical needs of the eligible individual to perform activities of daily living and essential job-related activities; and

(II) When medically necessary, an orthosis or a prosthesis designed for physical or recreational activities that maximize the eligible individual's full body health and lower and upper limb function.

b. All materials and components necessary to use the orthosis or prosthesis.

c. Instruction on the use of the orthosis or prosthesis.

d. Any necessary repairs or replacement of the orthosis or prosthesis.

3. This paragraph may not be construed to require Medicaid coverage of orthotics and prosthetics services specified herein for a Medicaid recipient who is not an eligible individual.

Section 2. The Agency for Health Care Administration shall seek federal approval and amend contracts as necessary to implement the changes made to s. 409.906, Florida Statutes, by this act.

Section 3. Section 627.64085, Florida Statutes, is created

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to read:

627.64085 Orthotics and prosthetics services.—

(1) As used in this section, the term "eligible individual" means an insured who is:

a. A child younger than 18 years of age;

b. A dependent child as defined in s. 627.6562;

c. An individual 26 years of age or younger who remains covered under a parent's health insurance policy pursuant to s. 627.6562; or

d. An individual with a developmental disability as defined in s. 393.063.

(2) A health insurance policy issued, amended, delivered, or renewed in this state on or after July 1, 2026, must provide coverage of all of the following for eligible individuals:

(a) Orthoses and prostheses as those terms are defined in s. 468.80 if the eligible individual's provider determines that an orthosis or a prosthesis is medically necessary for the eligible individual to perform activities of daily living, essential job-related activities, and physical recreational activities, such as running, biking, swimming, strength training, and other activities that maximize the eligible individual's full body health and lower and upper limb function.

(b) Any replacement of the orthosis or prosthesis, or part thereof, without regard to continuous use or useful lifetime restrictions, if the eligible individual's provider determines that it is medically necessary due to any of the following:

1. A change in the physiological condition of the eligible individual.

2. An irreparable change in the condition of the orthosis

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or prosthesis, or part thereof.

3. A change in the condition of the orthosis or prosthesis, or part thereof, requires repairs that would cost more than 60 percent of the cost of a replacement orthosis or prosthesis or of the part thereof requiring replacement.

A health insurer may require supporting documentation from an eligible individual's provider to confirm the need for a replacement for an orthosis or a prosthesis that is less than 3 years old.

(3) A health insurer may not deny a claim for an orthosis or a prosthesis as a medically necessary intervention to restore physical function for an eligible individual with a disability which would otherwise be covered for a nondisabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same type of physical function affected.

(4) Beginning July 1, 2027, and annually thereafter, each health insurer subject to this section shall submit a report to the Office of Insurance Regulation detailing the total number of claims submitted for orthotics and prosthetics services in the previous plan year and the total number of such claims that were paid, including the amount paid.

(5) This section may not be construed to require coverage of orthotics or prosthetics services for an insured who is not an eligible individual.

Section 4. Section 627.6614, Florida Statutes, is created to read:

627.6614 Orthotics and prosthetics services.—

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(1) As used in this section, the term "eligible individual" means an insured who is:

a. A child younger than 18 years of age;

b. A dependent child as defined in s. 627.6562;

c. An individual 26 years of age or younger who remains covered under a parent's health insurance policy pursuant to s. 627.6562; or

d. An individual with a developmental disability as defined in s. 393.063.

(2) A group, blanket, or franchise health insurance policy issued, amended, delivered, or renewed in this state on or after July 1, 2026, must provide coverage of all of the following for eligible individuals:

(a) Orthoses and prostheses as those terms are defined in s. 468.80 if the eligible individual's provider determines that an orthosis or a prosthesis is medically necessary for the eligible individual to perform activities of daily living, essential job-related activities, and physical recreational activities, such as running, biking, swimming, strength training, and other activities that maximize the eligible individual's full body health and lower and upper limb function.

(b) Any replacement of the orthosis or prosthesis, or part thereof, without regard to continuous use or useful lifetime restrictions, if the eligible individual's provider determines that it is medically necessary due to any of the following:

1. A change in the physiological condition of the eligible individual.

2. An irreparable change in the condition of the orthosis or prosthesis, or part thereof.

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3. A change in the condition of the orthosis or prosthesis, or part thereof, requires repairs that would cost more than 60 percent of the cost of a replacement orthosis or prosthesis or of the part thereof requiring replacement.

A health insurer may require supporting documentation from an eligible individual's provider to confirm the need for a replacement for an orthosis or a prosthesis that is less than 3 years old.

(3) A health insurer may not deny a claim for an orthosis or a prosthesis as a medically necessary intervention to restore physical function for an eligible individual with a disability which would otherwise be covered for a nondisabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same type of physical function affected.

(4) Beginning July 1, 2027, and annually thereafter, each health insurer subject to this section shall submit a report to the Office of Insurance Regulation detailing the total number of claims submitted for orthotics and prosthetics services in the previous plan year and the total number of such claims that were paid, including the amount paid.

(5) This section may not be construed to require coverage of orthotics or prosthetics services for an insured who is not an eligible individual.

Section 5. Section 641.31079, Florida Statutes, is created to read:

641.31079 Orthotics and prosthetics services.—

(1) As used in this section, the term "eligible individual"

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means a subscriber who is:

a. A child younger than 18 years of age;

b. A dependent child as defined in s. 627.6562;

c. An individual 26 years of age or younger who remains covered under a parent's health insurance policy pursuant to s. 627.6562; or

d. An individual with a developmental disability as defined in s. 393.063.

(2) A health maintenance contract issued, amended, delivered, or renewed in this state on or after July 1, 2026, must provide coverage of all of the following for eligible individuals:

(a) Orthoses and prostheses as those terms are defined in s. 468.80 if the eligible individual's provider determines that an orthosis or a prosthesis is medically necessary for the eligible individual to perform activities of daily living, essential job-related activities, and physical recreational activities, such as running, biking, swimming, strength training, and other activities that maximize the eligible individual's full body health and lower and upper limb function.

(b) Any replacement of the orthosis or prosthesis, or part thereof, without regard to continuous use or useful lifetime restrictions, if the subscriber's provider determines that it is medically necessary due to any of the following:

1. A change in the physiological condition of the eligible individual.

2. An irreparable change in the condition of the orthosis or prosthesis, or part thereof.

3. A change in the condition of the orthosis or prosthesis,

277724

or part thereof, requires repairs that would cost more than 60 percent of the cost of a replacement orthosis or prosthesis or of the part thereof requiring replacement.

A health maintenance organization may require supporting documentation from an eligible individual's provider to confirm the need for a replacement for an orthosis or a prosthesis that is less than 3 years old.

(3) A health maintenance organization may not deny a claim for an orthosis or a prosthesis as a medically necessary intervention to restore physical function for an eligible individual with a disability which would otherwise be covered for a nondisabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same type of physical function affected.

(4) Beginning July 1, 2027, and annually thereafter, each health maintenance organization subject to this section shall submit a report to the Office of Insurance Regulation detailing the total number of claims submitted for orthotics and prosthetics services in the previous plan year and the total number of such claims that were paid, including the amount paid.

(5) This section may not be construed to require coverage of orthotics or prosthetics services for a subscriber who is not an eligible individual.

Section 6. This act shall take effect July 1, 2026.

================ 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

277724

and insert:

A bill to be entitled

An act relating to coverage for orthotics and prosthetics services; amending s. 409.906, F.S.; defining the term "eligible individual"; authorizing the Agency for Health Care Administration to authorize and pay for specified orthotics and prosthetics services for Medicaid recipients who are eligible individuals; providing construction; requiring the agency to seek federal approval and amend contracts as necessary to implement the act; creating ss. 627.64085, 627.6614, and 641.31079, F.S.; defining the term "eligible individual"; requiring individual health insurance policies; group, blanket, and franchise health insurance policies; and health maintenance contracts, respectively, to provide coverage for specified orthotics and prosthetics services for eligible individuals; authorizing health insurers and health maintenance organizations to require certain supporting documentation; prohibiting health insurers and health maintenance organizations from denying claims under certain circumstances; requiring health insurers and health maintenance organizations to submit annual reports of specified information to the Office of Insurance Regulation; providing construction; providing an effective date.

By Senator Truenow

13-00237A-26 20261110__

A bill to be entitled

An act relating to coverage for orthotics and prosthetics services; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to authorize and pay for specified orthotics and prosthetics services for Medicaid recipients; requiring the agency to seek federal approval and amend contracts as necessary to implement the act; creating ss. 627.64085, 627.6614, and 641.31079, F.S.; requiring individual health insurance policies; group, blanket, and franchise health insurance policies; and health maintenance contracts, respectively, to provide coverage for specified orthotics and prosthetics services; prohibiting health insurers and health maintenance organizations from denying claims under certain circumstances; requiring health insurers and health maintenance organizations to submit annual reports of specified information to the Office of Insurance Regulation; providing an effective date.

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

Section 1. Subsection (10) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services

13-00237A-26 20261110__

were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(10) DURABLE MEDICAL EQUIPMENT.—

(a) The agency may authorize and pay for certain durable medical equipment and supplies provided to a Medicaid recipient as medically necessary.

(b) The agency may authorize and pay for all of the following orthotics and prosthetics services:

1. Orthoses and prostheses as those terms are defined in s. 468.80. Coverage must include payment for:

a. The model of an orthosis or a prosthesis which is deemed by the recipient's provider to be the most appropriate to meet the medical needs of the recipient to perform activities of daily living and essential job-related activities; and

b. When medically necessary, an orthosis or a prosthesis designed for physical or recreational activities that maximize the recipient's full body health and lower and upper limb function.

2. All materials and components necessary to use the orthosis or prosthesis.

3. Instruction on the use of the orthosis or prosthesis.

4. Any necessary repairs or replacement of the orthosis or prosthesis.

Section 2. The Agency for Health Care Administration shall seek federal approval and amend contracts as necessary to implement the changes made to s. 409.906, Florida Statutes, by this act.

Section 3. Section 627.64085, Florida Statutes, is created to read:

627.64085 Orthotics and prosthetics services.—

(1) A health insurance policy issued, amended, delivered, or renewed in this state on or after July 1, 2026, must provide coverage for all of the following:

(a) Orthoses and prostheses as those terms are defined in s. 468.80 if the insured's provider determines that an orthosis or a prosthesis is medically necessary for the insured to perform activities of daily living, essential job-related activities, and physical recreational activities, such as running, biking, swimming, strength training, and other activities that maximize the insured's full body health and lower and upper limb function.

(b) Any replacement of the orthosis or prosthesis, or part thereof, without regard to continuous use or useful lifetime

restrictions, if the insured's provider determines that it is medically necessary due to any of the following:

1. A change in the physiological condition of the insured.

2. An irreparable change in the condition of the orthosis or prosthesis, or part thereof.

3. A change in the condition of the orthosis or prosthesis, or part thereof, requires repairs that would cost more than 60 percent of the cost of a replacement orthosis or prosthesis or of the part thereof requiring replacement.

A health insurer may require supporting documentation from an insured's provider to confirm the need for a replacement for an orthosis or a prosthesis that is less than 3 years old.

(2) A health insurer may not deny a claim for an orthosis or a prosthesis as a medically necessary intervention to restore physical function for an insured with a disability which would otherwise be covered for a nondisabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same type of physical function affected.

(3) Beginning July 1, 2027, and annually thereafter, each health insurer subject to this section shall submit a report to the office detailing the total number of claims submitted for orthotics and prosthetics services in the previous plan year and the total number of such claims that were paid, including the amount paid.

Section 4. Section 627.6614, Florida Statutes, is created to read:

627.6614 Orthotics and prosthetics services.—

(1) A group, blanket, or franchise health insurance policy

issued, amended, delivered, or renewed in this state on or after July 1, 2026, must provide coverage for all of the following:

(a) Orthoses and prostheses as those terms are defined in s. 468.80 if the insured's provider determines that an orthosis or a prosthesis is medically necessary for the insured to perform activities of daily living, essential job-related activities, and physical recreational activities, such as running, biking, swimming, strength training, and other activities that maximize the insured's full body health and lower and upper limb function.

(b) Any replacement of the orthosis or prosthesis, or part thereof, without regard to continuous use or useful lifetime restrictions, if the insured's provider determines that it is medically necessary due to any of the following:

1. A change in the physiological condition of the insured.

2. An irreparable change in the condition of the orthosis or prosthesis, or part thereof.

3. A change in the condition of the orthosis or prosthesis, or part thereof, requires repairs that would cost more than 60 percent of the cost of a replacement orthosis or prosthesis or of the part thereof requiring replacement.

A health insurer may require supporting documentation from an insured's provider to confirm the need for a replacement for an orthosis or a prosthesis that is less than 3 years old.

(2) A health insurer may not deny a claim for an orthosis or a prosthesis as a medically necessary intervention to restore physical function for an insured with a disability which would otherwise be covered for a nondisabled person seeking medical or

surgical intervention to restore or maintain the ability to perform the same type of physical function affected.

(3) Beginning July 1, 2027, and annually thereafter, each health insurer subject to this section shall submit a report to the office detailing the total number of claims submitted for orthotics and prosthetics services in the previous plan year and the total number of such claims that were paid, including the amount paid.

Section 5. Section 641.31079, Florida Statutes, is created to read:

641.31079 Orthotics and prosthetics services.—

(1) A health maintenance contract issued, amended, delivered, or renewed in this state on or after July 1, 2026, must provide coverage for all of the following:

(a) Orthoses and prostheses as those terms are defined in s. 468.80 if the subscriber's provider determines that an orthosis or a prosthesis is medically necessary for the subscriber to perform activities of daily living, essential job-related activities, and physical recreational activities, such as running, biking, swimming, strength training, and other activities that maximize the subscriber's full body health and lower and upper limb function.

(b) Any replacement of the orthosis or prosthesis, or part thereof, without regard to continuous use or useful lifetime restrictions, if the subscriber's provider determines that it is medically necessary due to any of the following:

1. A change in the physiological condition of the subscriber.

2. An irreparable change in the condition of the orthosis

or prosthesis, or part thereof.

3. A change in the condition of the orthosis or prosthesis, or part thereof, requires repairs that would cost more than 60 percent of the cost of a replacement orthosis or prosthesis or of the part thereof requiring replacement.

A health maintenance organization may require supporting documentation from a subscriber's provider to confirm the need for a replacement for an orthosis or a prosthesis that is less than 3 years old.

(2) A health maintenance organization may not deny a claim for an orthosis or a prosthesis as a medically necessary intervention to restore physical function for a subscriber with a disability which would otherwise be covered for a nondisabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same type of physical function affected.

(3) Beginning July 1, 2027, and annually thereafter, each health maintenance organization subject to this section shall submit a report to the office detailing the total number of claims submitted for orthotics and prosthetics services in the previous plan year and the total number of such claims that were paid, including the amount paid.

Section 6. This act shall take effect July 1, 2026.

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 1256
INTRODUCER:	Senator Grall
SUBJECT:	Pharmacy Audits
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Pre-meeting**
2.			AEG	
3.			RC	

I. Summary:

SB 1256 revises the pharmacy audit requirements that a pharmacy benefit manager or their auditor must follow. The bill:

- Establishes uniform audit standards for pharmacy benefit manager (PBM) affiliated pharmacies and nonaffiliated pharmacies;
- Extends the amount of prior notice of an audit that a PBM must provide to a pharmacy from 7 days to 30 days;
- Limits each audit to random sampling of no more than 0.1 percent of prescriptions; prohibits targeted selection by drug class, cost, or category unless fraud is suspected; and provides that additional claims can only be audited if fraud, waste, or abuse is reasonably suspected and stated in writing;
- Establishes protocols and notice for the designation of a pharmacy audit as a fraud, waste, and abuse audit; requires written notice to the pharmacy before commencement of such audit, including a clear statement that the audit is designated as a fraud, waste, or abuse audit, the specific claims or classes of claims to which the fraud, waste, or abuse designation applies, and a list of the specific facts, data, or allegations forming the basis for the fraud, waste, abuse designation;
- Prohibits PBM auditors from being compensated based on contingency based on recovery amounts;
- Creates inventory reconciliation protections to ensure that pharmacy-to-pharmacy transfers cannot be rejected; and limits documentation to the Federal Supply Chain Act requirements;
- Delays PBM recoupment until any appeals are resolved; the pharmacy has responded to any appeal; and the final audit report is issued;
- Limits recoupment to dispensing fee unless the pharmacy failed to dispense the drug or committed fraud; and prohibits ingredient cost recoupment for clerical or documentation errors; and

- Authorizes the Office of Insurance (OIR) to investigate audit complaints, issue fines based on the severity of the violation, order restitution for improper recoupments; and suspend or revoke a PBM registration for willful violations.

II. Present Situation:

The Office of Insurance Regulation[1]

The Office of Insurance Regulation (OIR) is an office under the Financial Services Commission (commission), which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The commission is the agency head for purposes of rulemaking for OIR. The commission is not subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters. OIR is responsible for the regulation of all activities of insurers and other risk-bearing entities, including licensure, rates, policy forms, market conduct, claims, solvency, administrative supervision, pursuant to the Florida Insurance Code (code).

Pharmacy Benefit Managers

The OIR also regulates pharmacy benefit managers (PBMs). A PBM operating in Florida must be registered with OIR, pursuant to s. 624.490, F.S., and hold a valid certificate of authority (COA) as an insurance administrator. A PBM is a person or an entity doing business in this state which contracts to administer prescription drug benefits on behalf of a pharmacy benefits plan or program. The term includes, but is not limited to, a person or an entity that performs one or more of the following services on behalf of such plan or program:

- Pharmacy claims processing.
- Administration or management of a pharmacy discount card program.
- Managing pharmacy networks or pharmacy reimbursement.
- Paying or managing claims for pharmacist services provided to covered persons.
- Developing or managing a clinical formulary, including utilization management or quality assurance programs.
- Pharmacy rebate administration.
- Managing patient compliance, therapeutic intervention, or generic substitution programs.
- Administration or management of a mail-order pharmacy program.[2]

A pharmacy benefit plan or program[3] includes, but is not limited to, health maintenance organizations (HMOs), health insurers, self-insured employer health plans, discount card programs, and government-funded health plans, including the Statewide Medicaid Managed Care (SMMC) program established pursuant to part IV of ch. 409, F.S., and the state group insurance program pursuant to part I of ch. 110, F.S. The term excludes such a plan or program under ch. 440, F.S. the workers' compensation law.

[1] Section 20.121(3), F.S.
[2] Section 626.88(6), F.S.
[3] Section 626.8825(1)(u), F.S.

Section 624.491, F.S., prescribes the terms and conditions for an audit of a pharmacy licensed under ch. 465, F.S., by an entity, such as a pharmacy benefit plan or a pharmacy benefit manager, or their representative auditor. Pursuant to s. 408.7057, F.S., and after the receipt of the final audit report, a pharmacy may appeal the findings of the final audit report as to whether a claim payment is due and as to the amount of the claim payment.

Statewide Provider and Health Plan Claim Dispute[4]

Section 408.7057, F.S., creates the Statewide Provider and Health Plan Claim Dispute Resolution Program (program) within the Agency for Health Care Administration (agency). The program assist health care providers and health insurance plans resolve health care claims disputes. Capitol Bridge is the agency's contracted independent dispute resolution organization who serves as the arbitrator of claims disputes between the health care providers and health insurance plans. The program provides a lower cost dispute resolution option to formal litigation.

The program is not mandatory but provides a path to dispute resolution in lieu of formal litigation. However, once a provider requests arbitration services related to a SMMC claim dispute, the SMMC contracted plan must participate in the arbitration process. Once both parties agree to participate, the decision is binding.

The resolution organization has 60 days to make a recommendation to the agency after receipt of the appropriate forms and documentation. The resolution organization has the right to request additional documentation from both parties. The total review time may not exceed 90 days following receipt of the initial claim dispute request. The agency has 30 days to issue a final order based upon the date of receipt of the recommendation made by the resolution organization. The final order is subject to judicial review pursuant to s. 120.68, F.S.

Pharmacist Licensure

The Board of Pharmacy (Board), in conjunction with the Department of Health (Department), regulate the practice of pharmacists pursuant to ch. 465, F.S. To be licensed as a pharmacist, a person must:

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;
- Have completed a Board-approved internship; and
- Successfully complete the Board-approved examination.

A pharmacist must complete at least 30 hours of Board-approved continuing education during each biennial renewal period. Section 465.003(22), F.S. outlines a pharmacist's authority within the scope of practice of the profession of pharmacy. According to the Department of Health's Division of Medical Quality Assurance 2024-2025 Annual Report, there are 41,245 licensed pharmacists in Florida.

[4] Agency for Health Care Administration, Statewide Provider and Health Plan Claim Dispute Resolution Program Statewide Provider and Health Plan Claim Dispute Resolution Program FAQ | Florida Agency for Health Care Administration (last visited Feb. 2, 2026).

Audits of Pharmacies

Audits of pharmacy claims serve two main purposes, namely, detecting fraud, waste and abuse within the prescription drug benefit, and validating data entry and documentation to ensure that pharmacies meet regulatory and contractual requirements. Auditors review a sample of the total population of claims to determine compliance with the PBM contract.

Audit sampling is the application of an audit procedure to less than 100 percent of the items within an account balance or class of transactions for the purpose of evaluating some characteristic of the balance or class.[5] Generally, the sample size is based on statistically valid rational and risk assessments.[6] The sample must be representative of the population. Further, the sample must be large enough to reflect the population, typically requiring a lower margin of error (e.g., +/- 3 percent) and higher confidence level (e.g., 95 percent).[7]

III. Effect of Proposed Changes:

Section 1 amends s. 624.491, F.S., relating to pharmacy audits, to:

- Require the person conducting a pharmacy audit (auditor) on behalf of a pharmacy benefit plan or program to apply uniform audit standards, scope, frequency, and penalty practices to all pharmacies within the pharmacy benefit plan's network, including the pharmacy benefit managers owned or affiliated and non-affiliated pharmacies;
- Prohibits the auditor from imposing stricter audit methodologies, higher error thresholds, expanded documentation requirements or more frequent audits on nonaffiliated pharmacies than on pharmacy benefit manager owned or affiliated pharmacies.
- Requires the auditor to provide documentation demonstrating compliance with applying uniform audit standards, penalty practices to all pharmacies within the pharmacy benefit's plan network, upon request by the Office of Insurance Regulation (OIR) or a network pharmacy subject to audit.
- Requires auditor to provide at 30 instead of 7 days advance notice before any initial onsite or remote audit for each audit cycle.
- Prohibits an auditor from scheduling an audit during the first seven instead of three calendar days of the month unless the pharmacy consents in writing.
- Limits the scope of each audit to a random sampling of no more than 0.1 percent of prescriptions. Any additional claims may be audited only if fraud, waste, or abuse is reasonably suspected and stated in writing.
- Requires the auditor to use a random selection process for conducting audits. Targeting selection based on drug class, cost, or therapeutic category is prohibited unless fraud, waste, or abuse is suspected and stated in writing.
- Requires that if an audit requires clinical or professional judgement, any pharmacist used must be licensed in Florida.

[5] Public Company Accounting Oversight Board, AS 2315: Audit Sampling | PCAOB (Dec. 15, 2026).
[6] Packaging Digest, How to determine a valid sample size for testing medical device packaging (Oct. 19, 2018) (last visited Feb. 2, 2026).
[7] *Id.*

- Authorizes the pharmacy to use the written and verifiable records of a prescriber to validate the pharmacy records. The bill also provides that electronic records and scanned prescriptions are valid.
- Requires that a pharmacy must be reimbursed for an omission or discrepancy in documentation which does not affect the identity of the patient, the identity of the prescriber, the drug dispensed, the quantity dispensed, the date of service, or the accuracy of the amount paid under the claim, if the prescription was properly and correctly dispensed, unless a pattern of such errors exists, fraudulent billing is alleged, or the error results in actual financial loss to the entity. The bill provides that such errors are not considered fraud unless there is clear and convincing evidence of intent to defraud.
- Requires the auditor to provide the pharmacy with a copy of the preliminary audit report within 30 instead of 120 days after the conclusion of the audit.
- Authorizes the pharmacy to initiate an appeal within 30 instead of 10 days after the preliminary audit is delivered to the pharmacy. A written appeals process is required.
- Provides that recoupment may not be calculated according to the accounting practice of extrapolation unless agreed upon in writing as part of a settlement. Recoupment is limited to the dispensing fee unless the pharmacy failed to dispense the drug or acted with willful intent to defraud. Ingredient cost recoupment is prohibited unless fraud or willful misrepresentation is proven. All recouped funds must be returned in full to the plan sponsor.
- Provides that recoupment may not occur until:
    - The pharmacy has had at least 30 days to respond;
    - All appeals are resolved; and
    - A final audit report is issued.
- Prohibits compensation of the auditor based on recovery amounts.

The bill provides that the person conducting the pharmacy audit may not:

- Disregard valid inventory acquired in accordance with state and federal law and legitimate business practices. All legally sourced products held by the pharmacy at the time of dispensing must count toward inventory reconciliation.
- Impose additional notification or approval requirements for routine pharmacy business decisions.
- Require sourcing from a narrower list of distributors than what is permitted under state or federal licensure standards.
- Impose manufacturer-driven restrictions on the source of drug products used in audit reconciliation.
- Reject purchases from pharmacy-to-pharmacy transfers conducted in accordance with state and federal law and accompanied by appropriate transaction documentation.
- Require bank statements, deposit records, including copies of the front or back of checks, and point-of-sale transaction records, or a combination of such records if any one or more of these records sufficiently demonstrates copay collection consistent with industry norms. Reasonable proof of copay collection must be limited to standard pharmacy records, including signature logs, point-of-sale transaction records, and accounting records.
- Require subsequent attestations from the patient. Lack of subsequent attestation may not be used to justify claim reversal or recoupment if a pharmacy possesses valid

documentation that medication was dispensed to the patient or his or her authorized representative, including, but not limited to, signature logs, electronic dispensing records, point-of-sale transaction records, or an in-person pharmacist acknowledgement of dispensing.

- Initiate subsequent attestations more than 180 days after the date of service.
- Require duplicate or extraordinary documentation beyond what is required under state and federal law in invoice audits. The following is deemed sufficient proof of lawful acquisition of products for audit reconciliation purposes:
  - Invoices from licensed wholesalers or distributors.
  - Valid documentation of pharmacy-to-pharmacy transfers conducted in accordance with state or federal law.
  - Records consistent with the Drug Supply Chain Security Act, 21 U.S.C. ss. 351 et seq., and Board of Pharmacy requirements.

The bill provides that an audit designated as a fraud, waste, or abuse audit must be based on specific, documented evidence or a credible allegation of fraud, waste, or abuse involving the pharmacy or a specific claim or set of claims under review. The person or entity conducting a fraud, waste, or abuse audit must provide the pharmacy with, in writing, before commencement of such audit:

- A clear statement that the audit is designated as a fraud, waste, or abuse audit.
- A list of the specific facts, data, or allegations forming the basis for the fraud, waste, abuse designation.
- Identification of the specific claims or classes of claims to which the fraud, waste, or abuse designation applies.

The bill provides that person or entity auditing the records of a pharmacy licensed under chapter 465, F.S., may not use a fraud, waste, or abuse audit designation to circumvent any provision of s. 624.491, F.S., unless the audit complies fully with the fraud, waste, or abuse audit provisions.

The bill provides that the provisions of s. 624.491, F.S., do not apply to audits conducted by the Medicaid Fraud Control Unit or initiated under a criminal investigation supported by probable cause.

Authorizes OIR to:

- Investigate complaints of violations of s. 624.491, F.S.
- Issue cease and desist orders.
- Impose administrative fines as follows:
  - For misuse of the fraud, waste, or abuse designation in violation of subsection (3), a fine not to exceed $100,000 per violation.
  - For a violation of paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c), a fine not to exceed $50,000 per violation.
  - For any other violation of this section, a fine not to exceed $25,000 per violation.
- Order restitution for improper recoupments.
- Prohibit any person or entity from conducting audits under s. 624.491, F.S. for up to 2 years upon a finding that such person or entity has committed willful abuse of the fraud, waste, or abuse designation in violation of s. 624.491(3), F.S.

- Suspend or revoke a pharmacy benefit manager's registration under s. 624.490 for repeated or willful violations.

The Financial Services Commission is authorized to adopt rules necessary to implement the bill.

Section 2 provides the bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The amendments to the pharmacy audit requirements and recoupment practices by PBMs may reduce the number and amount of recoupments collected by PBMs from pharmacies.

C. Government Sector Impact:

The bill provides the Office of Insurance Regulation with more enforcement authority to investigate complaints relating to pharmacy audits, as well as fines for noncompliance.

VI. Technical Deficiencies:

Typically, a sample size is based on statistically valid rationale and risk assessments of the entity being audited.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 624.491 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.

By Senator Grall

29-01367A-26 20261256__

A bill to be entitled

An act relating to pharmacy audits; amending s. 624.491, F.S.; revising requirements for audits of licensed pharmacies conducted by or on behalf of pharmacy benefit plans or programs; revising audit procedures, documentation requirements, reporting and appeal requirements, and recoupment limits and procedures; prohibiting the person or entity conducting such audit from taking certain actions; requiring that an audit designated as a fraud, waste, or abuse audit be based on specified evidence or credible allegations or claims; providing requirements for the person or entity conducting such fraud, waste, or abuse audit; prohibiting a person or entity auditing the records of a licensed pharmacy from using a fraud, waste, or abuse audit designation to circumvent certain provisions; providing an exception; revising applicability; providing for enforcement; authorizing the Office of Insurance Regulation to investigate complaints of violations, issue cease and desist orders, impose fines and other administrative penalties, order restitution for improper recoupments, prohibit any person or entity from conducting audits for a specified timeframe upon certain findings, and suspend or revoke a pharmacy benefit manager's registration under certain circumstances; requiring the Financial Services Commission to adopt rules; providing an effective date.

29-01367A-26 20261256__

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

Section 1. Section 624.491, Florida Statutes, is amended to read:

624.491 Pharmacy audits; enforcement; penalties; rulemaking.—

(1) A pharmacy benefits plan or program as defined in s. 626.8825 providing pharmacy benefits must comply with ~~the requirements of~~ this section when the pharmacy benefits plan or program or any person or entity acting on behalf of the pharmacy benefits plan or program, including, but not limited to, a pharmacy benefit manager as defined in s. 626.88, audits the records of a pharmacy licensed under chapter 465. The person or entity conducting such audit must:

(a) Apply uniform audit standards, scope, frequency, and penalty practices to all pharmacies within the pharmacy benefits plan's or program's network, including pharmacy benefit manager-owned or -affiliated pharmacies and nonaffiliated pharmacies.

(b) Not impose stricter audit methodologies, higher error thresholds, expanded documentation requirements, or more frequent audits on nonaffiliated pharmacies than on pharmacy benefit manager-owned or -affiliated pharmacies.

(c) Upon request by the office or a network pharmacy subject to audit, provide documentation demonstrating compliance with paragraph (a) or paragraph (b), including a comparison of audit frequency, scope, methodologies, and recoupment rates between pharmacy benefit manager-owned or -affiliated pharmacies and nonaffiliated pharmacies.

(d)~~(a)~~ Except as provided in subsection (5) ~~(3)~~, notify the

pharmacy in writing at least 30 ~~7~~ calendar days before any ~~the~~ initial onsite or remote audit for each audit cycle.

(e) ~~(b)~~ Not schedule an ~~onsite~~ audit during the first 7 ~~3~~ calendar days of a month unless the pharmacist consents in writing ~~otherwise~~.

(f) Not disrupt patient care or otherwise interfere with the pharmacy's daily operations.

(g) ~~(c)~~ Limit the duration of the audit period to 24 months after the date a claim is submitted to or adjudicated by the entity.

(h) Limit each audit to a random sampling of no more than 0.1 percent of prescriptions. Additional claims may be audited only if fraud, waste, or abuse is reasonably suspected and stated in writing.

(i) Use a random selection process for conducting audits. Targeted selection based on drug class, cost, or therapeutic category is prohibited unless fraud, waste, or abuse is reasonably suspected and stated in writing.

(j) ~~(d)~~ In the case of an audit that requires clinical or professional judgment, conduct the audit in consultation with, or allow the audit to be conducted by, a pharmacist licensed in this state.

(k) ~~(e)~~ Allow the pharmacy to use the written and verifiable records of a prescriber, hospital, physician, or other authorized practitioner, which are transmitted by any means of communication, to validate the pharmacy records in accordance with state and federal law. Electronic records and scanned prescriptions are valid.

(l) ~~(f)~~ Reimburse the pharmacy for a claim that was

retroactively denied for a clerical error, typographical error, scrivener's error, or computer error or for an omission or discrepancy in documentation which does not affect the identity of the patient, the identity of the prescriber, the drug dispensed, the quantity dispensed, the date of service, or the accuracy of the amount paid under the claim, if the prescription was properly and correctly dispensed, unless a pattern of such errors exists, fraudulent billing is alleged, or the error results in actual financial loss to the entity. Such errors are not considered fraud unless there is clear and convincing evidence of intent to defraud.

(m) ~~(g)~~ Provide the pharmacy with a copy of the preliminary audit report within 30 ~~120~~ days after the conclusion of the audit.

(n) ~~(h)~~ Allow the pharmacy to produce documentation to address a discrepancy or audit finding, or to initiate an appeal, within 30 ~~10 business~~ days after the preliminary audit report is delivered to the pharmacy. A written audit appeals process is required.

(o) ~~(i)~~ Provide the pharmacy and the plan sponsor with a copy of the final audit report within 90 days ~~6 months~~ after the pharmacy's receipt of the preliminary audit report.

(p) ~~(j)~~ Calculate any recoupment or penalties based on actual overpayments. Recoupment may ~~and~~ not be calculated according to the accounting practice of extrapolation unless agreed upon in writing as part of a settlement. Recoupment is limited to the dispensing fee unless the pharmacy failed to dispense the drug or acted with willful intent to defraud. Ingredient cost recoupment is prohibited unless fraud or willful

misrepresentation is proven. All recouped funds must be returned in full to the plan sponsor. Recoupment may not occur until:

1. The pharmacy has had at least 30 days to respond;

2. All appeals are resolved; and

3. A final audit report is issued.

(q) Not be compensated based on recovery amounts.

(2) The person or entity conducting such audit may not:

(a) Disregard valid inventory acquired in accordance with state and federal law and legitimate business practices. All legally sourced products held by the pharmacy at the time of dispensing must count toward inventory reconciliation.

(b) Impose additional notification or approval requirements for routine pharmacy business decisions.

(c) Require sourcing from a narrower list of distributors than what is permitted under state or federal licensure standards.

(d) Impose manufacturer-driven restrictions on the source of drug products used in audit reconciliation.

(e) Reject purchases from pharmacy-to-pharmacy transfers conducted in accordance with state and federal law and accompanied by appropriate transaction documentation.

(f) Require bank statements, deposit records, including copies of the front or back of checks, and point-of-sale transaction records, or a combination of such records if any one or more of these records sufficiently demonstrates copay collection consistent with industry norms. Reasonable proof of copay collection shall be limited to standard pharmacy records, including signature logs, point-of-sale transaction records, and accounting records.

(g) Require subsequent attestations from the patient. Lack of subsequent attestation may not be used to justify claim reversal or recoupment if a pharmacy possesses valid documentation that medication was dispensed to the patient or his or her authorized representative, including, but not limited to, signature logs, electronic dispensing records, point-of-sale transaction records, or an in-person pharmacist acknowledgement of dispensing.

(h) Initiate subsequent attestations more than 180 days after the date of service.

(i) Require duplicate or extraordinary documentation beyond what is required under state and federal law in invoice audits. The following is deemed sufficient proof of lawful acquisition of products for audit reconciliation purposes:

1. Invoices from licensed wholesalers or distributors.

2. Valid documentation of pharmacy-to-pharmacy transfers conducted in accordance with state or federal law.

3. Records consistent with the Drug Supply Chain Security Act, 21 U.S.C. ss. 351 et seq., and Board of Pharmacy requirements.

Documentation may not be required unless reasonably necessary to validate lawful inventory acquisitions.

(3)(a) An audit designated as a fraud, waste, or abuse audit must be based on specific, documented evidence or a credible allegation of fraud, waste, or abuse involving the pharmacy or a specific claim or set of claims under review.

(b) The person or entity conducting a fraud, waste, or abuse audit must provide the pharmacy with, in writing, before

commencement of such audit:

1. A clear statement that the audit is designated as a fraud, waste, or abuse audit.

2. A list of the specific facts, data, or allegations forming the basis for the fraud, waste, or abuse designation.

3. Identification of the specific claims or classes of claims to which the fraud, waste, or abuse designation applies.

(c) A person or entity auditing the records of a pharmacy licensed under chapter 465 may not use a fraud, waste, or abuse audit designation to circumvent any provision of this section unless the audit complies fully with this subsection.

(4) ~~(2)~~ This section does not apply to:

(a) Audits conducted by the Medicaid Fraud Control Unit or initiated under a criminal investigation supported by probable cause;

(b) ~~(a)~~ Audits in which suspected fraudulent activity or other intentional or willful misrepresentation is evidenced by a physical review, review of claims data or statements, or other investigative methods;

(c) ~~(b)~~ Audits of claims paid for by federally funded programs; or

(d) ~~(c)~~ Concurrent reviews or desk audits that occur within 3 business days after transmission of a claim and where no chargeback or recoupment is demanded.

(5) ~~(3)~~ An entity that audits a pharmacy located within a Health Care Fraud Prevention and Enforcement Action Team (HEAT) Task Force area designated by the United States Department of Health and Human Services and the United States Department of Justice may dispense with the notice requirements of paragraph

(1)(d) ~~(1)(a)~~ if such pharmacy has been a member of a credentialed provider network for less than 12 months.

(6) ~~(4)~~ Pursuant to s. 408.7057, and after receipt of the final audit report issued under paragraph (1)(o) ~~(1)(i)~~, a pharmacy may appeal the findings of the final audit report as to whether a claim payment is due and as to the amount of a claim payment.

(7) ~~(5)~~ A pharmacy benefits plan or program that, under terms of a contract, transfers to a pharmacy benefit manager the obligation to pay a pharmacy licensed under chapter 465 for any pharmacy benefit claims arising from services provided to or for the benefit of an insured or subscriber remains responsible for a violation of this section.

(8) The office shall enforce this section and may:

(a) Investigate complaints of violations of this section.

(b) Issue cease and desist orders.

(c) Impose administrative fines as follows:

1. For misuse of the fraud, waste, or abuse designation in violation of subsection (3), a fine not to exceed $100,000 per violation.

2. For a violation of paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c), a fine not to exceed $50,000 per violation.

3. For any other violation of this section, a fine not to exceed $25,000 per violation.

(d) Order restitution for improper recoupments.

(e) Prohibit any person or entity from conducting audits under this section for up to 2 years upon a finding that such person or entity has committed willful abuse of the fraud, waste, or abuse designation in violation of subsection (3).

(f) Suspend or revoke a pharmacy benefit manager's registration under s. 624.490 for repeated or willful violations.

(9) The commission shall adopt rules necessary to implement this section.

Section 2. This act shall take effect July 1, 2026.

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 1380
INTRODUCER:	Senator Martin
SUBJECT:	Unauthorized Aliens
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Pre-meeting**
2.			AP	
3.			RC	

I. Summary:

SB 1380 enacts requirements related to unauthorized alien employment verification and eligibility for insurance benefits and state and local government assistance. The bill:

- Prohibits individuals who are not lawfully present in the U.S. from obtaining any license issued from the Department of Financial Services (DFS).
- Requires that individuals receiving financial assistance from a county surtax, including any loans or grants, must be lawfully present in the United States.
- Authorizes DFS to deny claims submitted to the Division of Risk Management within DFS by adult unauthorized aliens based on immigration status. This section also provides the division with discretion to deny claims submitted by unauthorized alien minor.
- Requires all licensing procedures, prelicensing instructions, and licensing testing under ch. 322, F.S., be conducted solely in the English language.
- Prohibits individuals who are not lawfully present in the U.S. from receiving home ownership down payment assistance.
- Prohibits individuals who are not lawfully present in the U.S. from receiving Florida Hometown Hero Program assistance.
- Revises the definition of employee for purposes of the workers' compensation law to exclude unauthorized aliens. However, lawful and unlawful minors continue to be considered employees.
- Adds for purposes of workers' compensation, compensation is payable irrespective of fault except for unauthorized aliens.
- Provides that if an employer knowingly hires or employs an individual who is not authorized to work in the U.S. under federal law, the employer is personally and fully liable for all medical and treatment costs and related expenses of the unauthorized alien. The unauthorized alien may sue in tort since workers' compensation would no

longer be the exclusive remedy. The bill creates a fine not to exceed $50,000 per violation for knowingly hiring or employing an unauthorized alien.

- Requires an employer to verify an employee's employment eligibility through E-Verify prior to submitting a claim. If the employer fails to check an employee's status through E-Verify before submitting a claim to a carrier, the employer is ineligible to receive benefits from the carrier. Employers must maintain E-Verify documentation that is generated.
- Creates fines for an employer who knowingly hires or employs unauthorized aliens. The bill authorizes the Department of Commerce to also suspend or revoke licenses held by employers which were issued by a licensing agency under ch. 120, F.S., contingent on the number of instances of noncompliance.
- Prohibits licensed money transmitters from initiating foreign remittance transfers on behalf of certain senders unless the licensee has verified that the sender is not an unauthorized alien. The bill requires money transmitters to verify compliance with new statutory mandates through submission of forms and records retention. The bill requires the Office of Financial Regulation (OFR) to impose a monetary penalty equal to 25 percent of the U.S. dollar amount transferred upon money transmitters who fail to comply with the verification provisions.
- Requires the OFR to conduct a records audit for foreign remittance licensees. Further, OFR may request the money transmitter, at any time, to provide documentation showing that a sender of a foreign remittance transfer is not an unauthorized alien. A person with a good-faith belief that a licensee is violating the verification requirements may file a complaint with the OFR. Upon substantiated complaints, the licensee must pay any applicable penalties.
- Prohibits check cashers and foreign currency exchangers from accepting licenses or identification cards issued exclusively to unauthorized aliens as valid identification.
- Establishes an automatic presumption of fault for unauthorized aliens driving with an invalid out-of-state-license in motor vehicle accidents unless the other driver caused the accident through reckless behavior, was driving under the influence, was racing, or left the scene.
- Prohibits state-chartered financial institutions from accepting identification cards or licenses issued exclusively to unauthorized aliens as valid identification for accessing financial services.

Provides that the bill takes effect upon becoming law.

II. Present Situation:

Recent Immigration Trends[1]

The United States unauthorized immigrant population reached a record 14 million in 2023. This growth continued in 2024, and has decreased in 2025. After mid-2024, policy decisions spanning the President Biden and President Trump administrations again changed this population. Growth

[1] Pew Research Center, U.S. Unauthorized Immigrant Population Reached a Record 14 Million in 2023 (Aug. 21, 2025) Record 14 Million Unauthorized Immigrants Lived in the US in 2023 | Pew Research Center (last visited Feb. 8, 2026).

slowed considerably in the last half of 2024 after the Biden administration stopped accepting asylum applications at the border and paused parole programs. Subsequently in 2025, the unauthorized immigrant population has probably started to decline, due in part to increased deportations and reduced protections under President Trump's administration. It is estimated that 1.6 million unauthorized immigrants live in Florida.

Employment Verification

Under the federal Immigration Reform and Control Act of 1986 (IRCA),[2] it is illegal for any United States employer to knowingly:

- Hire, recruit, or refer for a fee an alien knowing he or she is unauthorized to work;
- Continue to employ an alien knowing he or she has become unauthorized; or
- Hire, recruit or refer for a fee, any person (citizen or alien) without following the record keeping requirements of the IRCA.[3]

The employment verification process begins when an employee accepts an offer of employment.[4] Between this point and the employee's first day on the job, an employee must present documents that establish his or her identity and eligibility to work[5] by completing Section 1 of the Form I-9, which requires the employee's name, address, social security number (SSN), and citizenship status under penalty of perjury.[6] By the end of the third day on the job, the employer is required to complete Section 2, which states under penalty of perjury that certain employee-provided documents that establish the employee's eligibility were reviewed.[7] Most employers are not required to continue the verification of employment eligibility process beyond this step. However, for those who choose to use or are required to use E-Verify, the process continues.

E-Verify Federal Law

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA),[8] which, among other provisions, created various employment eligibility verification programs, including the Basic Pilot program, now referred to as E-Verify. E-Verify is an Internet-based system through which an employer can verify that a newly hired employee is authorized to work in the United States. E-Verify is administered by DHS in partnership with the Social Security Administration (SAA). It is free for employers to use and provides an automated link to government records to help employers confirm the employment eligibility of new hires.[9]

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[2] Pub. L. No. 99-603, 100 Stat. 3359.
[3] 8 U.S.C. s. 1324a.
[4] U.S. Citizenship and Immigration Services, *Complete and Correct Form I-9*, https://www.uscis.gov/i-9-central/complete-and-correct-form-i-9 (last visited Mar. 11, 2023).
[5] An employer may rely on a U.S. passport; resident alien card, alien registration card, or other document designated by the U.S. Attorney General that contains a photograph and other personal identifying information, authorizes employment in the U.S., and is tamper resistant. Alternatively, an employer may review a combination of documents that establish the individual's identity, e.g., a SSN, and a document that establishes the individual's identity, e.g., a driver's license.
[6] *See* 8 C.F.R. s. 274a.2(b)(1)(i)(A).
[7] 8 U.S.C. s. 1324a. *See* 8 C.F.R. s. 274a.2(b)(1)(ii).
[8] Pub. L. No. 104-208.
[9] U.S. Citizenship and Immigration Services, *How do I use E-Verify?* https://www.e-verify.gov/sites/default/files/everify/guides/E4en.pdf (last visited Feb. 8, 2026).

In 2008, the federal government began requiring any entity that maintained or applied for federal contracts to use E-Verify.[10] By 2025, E-Verify had 1,392,898 participating employers.[11] For 2025, about 132,846 Florida employers had entered into memorandums of understanding (MOU) with DHS to participate in the E-Verify System.[12] Some of the requirements of employers delineated in the MOU, include but are not limited to:[13]

- The Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Employers must promptly terminate an employee's E-Verify access if the employee is separated from the company or no longer needs access to E-Verify.
- The employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed.
- The Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.
- The Employer must use E-Verify for all new employees. The Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. The Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU.
- The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

To use the E-Verify system, an employer must open a "case" for the employee on the system and enter basic information from the employee's Form I-9 (name, address, SSN) into the case.[14] Then, the system checks the submitted information to records that are available to the DHS and SSA, and issues one of the following possible results to the employer:

- Employment Authorized - The employee's information matched records available to the DHS and/or SSA.
- E-Verify Needs More Time - This case was referred to the DHS for further verification.
- Tentative Nonconfirmation (Mismatch) - Information did not match records available to the DHS and/or SSA. If this is the initial result, the employer must notify the

[10] E-Verify, *History and Milestones*, https://www.e-verify.gov/about-e-verify/history-and-milestones (last visited Feb. 8, 2026).
[11] E-Verify, *E-Verify Usage Statistics*, click "Show the Data Table" for a download csv, https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-usage-statistics (last visited Feb. 8, 2026).
[12] *Id.*
[13] *See* E-Verify, *The E-Verify Memorandum of Understanding for Employers* (June 1, 2013), https://www.e-verify.gov/sites/default/files/everify/memos/MOUforEVerifyEmployer.pdf (last visited Feb. 8, 2026).
[14] E-Verify, *Verification Process*, for details on how the system works, https://www.e-verify.gov/employers/verification-process (last visited Feb. 8, 2026).

employee so the employee can decide whether or not to take action to resolve the mismatch.

- Case in Continuance - The employee has contacted the DHS or visited an SSA field office, but more time is needed to determine a final case result.
- Close Case and Resubmit – The DHS or SSA requires that the employer to close the case and create a new case for the employee. This result may be issued when the employee's United States passport, passport card, or driver's license information is incorrect.
- Final Nonconfirmation - E-Verify cannot confirm the employee's employment eligibility after the employee contacted the DHS or SSA, the time for resolving the case expired, or the DHS closed the case without confirming the employee's employment eligibility for some other reason.[15]

If the result is Tentative Nonconfirmation, then the employer must notify the employee, who must take further action to verify his or her eligibility. If the result is E-Verify Needs More Time or Case in Continuance, then the E-Verify system needs more time to process the case.[16]

Potential Issues with E-Verify

The E-Verify process is only as accurate as the documentation that is presented to an employer. If an unauthorized worker presents legitimate documents belonging to another authorized individual, the system may approve them.[17] Although the E-Verify system has a small error rate, this may impact a significant number of employers and employees.[18] For 2025, about 97.8 percent of workers were found authorized[19] (about 42.6 million) and 2.17 percent were not found authorized.[20] Of the workers found to be not authorized, about 1.57 percent (about 684,000) were unresolved or in process, 0.56 percent (or 242,4000) were uncontested mismatch, and 0.04 percent or (about 18,600) were found not authorized after contested mismatch.

E-Verify Defenses for Employers

According to federal law, an employer using the I-9 Form, establishing good faith compliance with the law, has established an affirmative defense that the person or entity has not violated the federal law with respect to such hiring, recruiting, or referring.[21] Further, an employer taking the additional steps to use the E-Verify system to verify employment eligibility may establish a rebuttable presumption that the person or entity has not violated the federal law with respect to such hiring, recruiting, or referring.[22] The IRCA provides sanctions to be imposed on employers

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[15] *Id*.
[16] *Id.*
[17] WoodsRoger, DHS Contradictions on E-Verify Causing Uncertainty for Employers (Aug. 8, 2025), DHS Contradictions on E-Verify Causing Uncertainty for Employers | Woods Rogers (last visited Feb. 7, 2026).
[18] *Id.* WoodsRoger.
[19] E-Verify, My E-Verify Questions and Answers, (July 11, 2022) myE-Verify Questions and Answers | E-Verify (last visited Feb. 8, 2026). An individual's work authorization, or employment eligibility, refers to his or her legal right to work in the United States. U.S. citizens, born or naturalized, are always authorized to work in the United States, while foreign citizens may be authorized if they have an immigration status that allows them to work.
[20] E-Verify, E-Verify Performance, E-Verify Performance | E-Verify (Sept. 9, 2025) (last visited Feb. 8, 2026). Data update lag by one quarter.
[21] 8 U.S.C. s. 1324a(a)(3).
[22] 8 U.S.C. s. 1324a notes, *Pilot Programs for Employment Eligibility Confirmation*.

who knowingly employ aliens who are not authorized to work.[23] Federal law contains no criminal sanction for working without authorization, although document fraud is a civil violation.[24] The United States Citizenship and Immigration Services (USCIS) enforces these provisions.[25]

Florida E-Verify Law

Effective January 1, 2021, in Florida, all public employers and their contractors and subcontractors are required to register and use E-Verify to determine the work authorization status of all newly hired employees.[26] Subcontractors must provide an affidavit to their contractor stating that they do not employ, contract with, or subcontract with unauthorized aliens. The contractor must keep a copy of such affidavit for the duration of the contract.[27]

Since January 1, 2021, in Florida, private employers have been required to use the I-9 Form or E-Verify or a substantially equivalent system to verify that new hires or retained contract employees are authorized to work in the United States.[28] If the employer uses the I-9 system, the employer must retain a copy of the documentation for at least 3 years after the individual's initial date of employment.[29] The law applies to all private employers and does not appear to specify application based on a minimum amount of employees.

A private employer that complies with the law may not be held civilly or criminally liable under state law for hiring, continuing to employ, or refusing to hire an unauthorized alien if the information obtained indicated that the individual's work authorization status was not that of an unauthorized alien. Further, using either the I-9 Form or E-Verify creates a rebuttable presumption that the private employer did not knowingly employ an unauthorized alien.[30]

A person may not knowingly employ, hire, recruit, or refer an alien for private or public employment within the state if the alien is not authorized to work under "the immigration laws" or by the United States Attorney General.[31] A first offense of this prohibition is a noncriminal violation punishable by a fine of up to $500, regardless of the number of aliens with respect to which the violation occurred; each subsequent offense is a second degree misdemeanor,

[23] 8 U.S.C. s. 1324a(a)(1)-(2).
[24] 8 U.S.C. s. 1324c.
[25] 8 U.S.C. s. 1324a.
[26] Section 448.095(2), F.S. This section was enacted in 2020. Previously, pursuant to Executive Order 11-116, state agencies under the direction of the Governor were required to use E-Verify for all newly hired employees. The order also required an agency to include a provision in contracts to require a contractor (and any subcontractors) to use E-Verify for all new hires for the duration of the contract. State of Florida, Office of the Governor, *Executive Order No. 11-116,* May 27, 2011, http://edocs.dlis.state.fl.us/fldocs/governor/orders/2011/11-116-suspend.pdf (last visited Feb. 8, 2026).
[27] Section 448.095(2)(b), F.S.
[28] Section 448.095(3), F.S., provides that a private employer does not include a public employer, an employee leasing company that has a written agreement or understanding with its client company that places the primary obligation for compliance with this section upon the client company; or an occupant or owner of a private residence that hires casual labor or a licensed independent contractor.
[29] Section 448.095(3), F.S.
[30] *Id.*
[31] Section 448.09(1), F.S.

punishable by up to 60 days in jail and a fine not to exceed $500, with each unauthorized alien employed as a separate violation.[32]

The FDLE, the Attorney General, a state attorney, or the statewide prosecutor is authorized to request documentation from a private employer used to verify an individual's employment eligibility. Ultimately, the federal government's determination of verification of an individual's employment status stands and one of the authorized state agencies may not make an independent determination as to whether a person is an unauthorized alien.[33]

A private employer that does not use the I-9 Form or E-Verify, or does not maintain the I-9 Form documentation for three years, will be required by the DEO to provide an affidavit stating that the private employer will comply with the law, has terminated the employment of all unauthorized aliens in this state, and will not intentionally or knowingly employ an unauthorized alien in this state.[34]

If the private employer does not provide the required affidavit within 30 days after the request by the DEO, the appropriate licensing agency[35] must suspend all applicable licenses held by the private employer until the private employer provides the DEO with the required affidavit. If a private employer does not provide the required affidavit within the required time period three times within any 36-month period, then the appropriate licensing agency must revoke all applicable licenses held by the private employer. The licenses subject to suspension or revocation are:

- All licenses that are held by the private employer specific to the business location where the unauthorized alien performed work.
- If the private employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the private employer's business in general, then the provision applies to all licenses that are held by the private employer at the private employer's primary place of business.[36]

E-Verify in Other States

Currently, 22 states require the use of E-Verify for at least some public and/or private employers. These states include Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Indiana, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia and West Virginia.[37]

[32] Section 448.09(2), F.S. *See* ss. 775.082 and 775.083, F.S.
[33] Section 448.095(3), F.S.
[34] *Id.*
[35] The term "agency" means any agency, department, board, or commission of this state or a county or municipality in this state that issues a license to operate a business in this state.
[36] *Id.*
[37] National Conference of State Legislatures, State E-Verify Action, https://www.ncsl.org/immigration/state-e-verify-action (last visited Feb. 2, 2026).

The following states require private employers, as well as public employers and their contractors and subcontractors, to use E-Verify: Louisianna, North Carolina, Mississippi, Georgia, Arizona, Alabama, Utah, and South Carolina.[38]

Some states' approaches do not fall squarely into the above categories. For example, Tennessee requires only private employers that have 50 or more employees to use E-Verify.[39] Pennsylvania requires public contractors and private *construction* employers to use E-Verify.[40] In Michigan, only contractors of the Michigan Department of Transportation must use E-Verify.[41] Finally, West Virginia requires contractors whose employees work on the Capitol grounds to use E-Verify.[42]

Driver Licenses

Current law prohibits a person from driving any motor vehicle upon a Florida highway unless such person has a valid driver license issued under ch. 322, F.S.[43] However, an individual is exempt from obtaining a Florida driver license if he or she is a nonresident who is:[44]

- At least 16 years of age and possesses a valid noncommercial driver license issued to him or her in his or her home state or country and operating a type of motor vehicle for which a Class E driver license is required in this state.
- At least 18 years of age and possesses a valid noncommercial driver license issued to him or her in his or her home state or country and operating a motor vehicle, other than a commercial motor vehicle, in this state.

Current law establishes requirements governing the issuance of driver licenses by the Department of Highway Safety and Motor Vehicles (DHSMV) .[45] An applicant for a driver license or identification card is required to provide his or her SSN for the purpose of identification. This information is electronically verified with the federal Social Security Administration to confirm identity, as required by the Real ID Act of 2005. Applicants are required to provide proof of identity that is satisfactory to the DHSMV. The following documents constitute acceptable proof of identification:[46]

- A certified copy of a United States birth certificate;
- A valid, unexpired passport or passport card;
- A Certificate of Naturalization issued by the DHS;
- A valid, unexpired alien registration receipt card (green card);
- A Consular Report of Birth Abroad; and
- A valid employment authorization card issued by the DHSMV.

[38] S.C. Code § 41-8-20 (private employers); 8-14-20 (public employers and contractors).
[39] Tenn. Code § 50-1-703.
[40] 43 Penn. Stat. § 167.3 (public contractors); 43 Penn. Stat. §168.3 (private construction employers).
[41] Act 200, Public Acts of 2012, Sec. 381.
[42] W. Va. Code, § 15-2D-3.
[43] *See* s. 322.03, F.S.
[44] S. 322.04(1)(c) and (d), F.S.
[45] *See* s. 322.08, F.S.
[46] S. 322.08(2)(c), F.S.

DHSMV is authorized to require an applicant for an original driver license to produce certain DHS or foreign documents to prove nonimmigrant classification for the sole purpose of establishing continuous lawful presence in the United States.[47]

DHSMV is authorized to waive the Class E knowledge (written) and skills requirements if an applicant for an original driver license presents a valid driver license from another state, province of Canada, or the United States Armed Forces when applying for a Florida driver license of equal or lesser classification.[48]

Section 322.033, F.S., sets out provisions regarding driver licenses for unauthorized aliens and undocumented immigrants. The section provides legislative intent that all driver licenses or identification cards must meet all minimum security requirements of the REAL ID Act of 2005, Pub. L. No. 109-13, and that a driver license or identification card may not be issued to a person who is an unauthorized alien or undocumented immigrant.
A driver license issued by another state to an unauthorized alien or undocumented immigrant is invalid in Florida and does not authorize the holder to operate a motor vehicle in Florida.[49] A law enforcement officer or other authorized representative who stops a person driving with such an invalid license and driving without a valid license must issue a citation to the driver for driving without a license in violation of s. 322.03, F.S.[50] The DHSMV is required to maintain on its website a list of out-of-state classes of driver licenses that are invalid in Florida.[51]

Driver License Compact and Reciprocity

The Driver License Compact was created to provide uniformity among member jurisdictions when exchanging information with other members on convictions, records, licenses, withdrawals, and other data pertinent to the licensing process. Uniformity helps ease administrative costs and meets the underlying tenet of the agreement that each driver nationwide have only one driver license and one driver control record.

The DHSMV is authorized to enter into reciprocal driver license agreements with other jurisdictions within the United States and its territories and possessions and with foreign countries or political entities equivalent to Florida state government within a foreign country.[52] Generally, valid driver licenses issued by any state in the United States are valid when visiting another state.[53]

States Issuing Driver Licenses to Undocumented Immigrants

States issue driver's licenses under the constitutional authority of the 10th Amendment. In 2005, Congress enacted the Real ID Act, creating standards for state-issued driver's licenses, including evidence of lawful status. Currently, the District of Columbia and the following 19 states have

[47] S. 322.08(2)(c)8., F.S.
[48] S. 322.12, F.S.
[49] Section 322.033(2), F.S.
[50] Section 322.033(3), F.S.
[51] Section 322.033(4), F.S.
[52] S. 322.02(4), F.S.
[53] FindLaw, *Driver's Licenses FAQ*, November 27, 2017, https://www.findlaw.com/traffic/drivers-license-vehicle-info/driver-s-licenses-faq.html (last visited Feb. 2, 2026).

enacted laws to allow undocumented immigrants to obtain driver's licenses or identification cards: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Virginia, and Washington.[54] The states issue a license (driving privilege card) or an identification card if an applicant provides certain documentation, such as a foreign birth certificate, foreign passport, or consular card and evidence of current residency in the state.

Following the Real ID Act, noncompliant cards must have a recognizable feature on their face to distinguish the license from those issued to legal residents. Possession of a Real ID compliant driver license is not federally required for operating a motor vehicle. The DHS cautions against assuming that possession of a noncompliant card indicates that an individual is undocumented. Individuals may choose to obtain a noncompliant card for reasons unrelated to lawful presence in the United States.[55]

Florida's Employment Requirements and Prohibitions

Part I of ch. 448, F.S., relates to general labor regulations. Section 448.095, F.S., of this part, establishes requirements relating to employment eligibility and verification. An employer that is a public agency[56] must verify each new employee's employment eligibility within three business days after the first day that the new employee begins working for pay as required under 8 C.F.R. s. 274a.[57] Effective July 1, 2023, private employers with 25 or more employees[58] in Florida are required to use the E-Verify system to verify employment eligibility of new employees.[59] Such an employer is required to use the E-Verify system to certify on its first return each calendar year to the tax service provider that it is in compliance when making contributions to or reimbursing the state's unemployment compensation or reemployment assistance system.[60] Further, an employer may not continue to employ an unauthorized alien after obtaining knowledge that a person is or has become an unauthorized alien.[61]

In addition to the requirements under s. 288.061(6), effective July 1, 2024, if the Department of Commerce (department) determines that an employer failed to use the E-Verify system to verify

[54] Top 5 Things to Know About SB 1718, Florida's New Immigration Law, Top 5 Things to Know About SB 1718, Florida's New Immigration Law (June 28, 2025).
(last visited Feb. 4, 2026).
[55] Department of Homeland Security, *Real ID Frequently Asked Questions for the Public*, https://www.dhs.gov/archive/real-id-public-faqs (last visited Mar. 21, 2023).
[56] Section 448.095(1)(d), F.S., defines "public agency" to mean any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, state, county, city, town, village, municipality, or any other separate unit of government created or established pursuant to law, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
[57] Section 448.095(2)(a), F.S.
[58] Section 448.095(1)(b), F.S., defines an employee to mean an individual filling a permanent position who performs labor or services under the control or direction of an employer that has the power or right to control and direct the employee in the material details of how the work is to be performed in exchange for salary, wages, or other remuneration. An individual hired for casual labor, as defined in s. 443.036, which is to be performed entirely within a private residence, is not an employee of an occupant or owner of a private residence. An independent contractor, as defined in federal laws or regulations, hired to perform a specified portion of labor or services is not an employee.
[59] Section 448.095(2)(b), F.S.
[60] Section 448.095(2)(b)3., F.S.
[61] Section 448.095(2)(e), F.S.

the employment eligibility of employees as required under this section, the department must notify the employer of the department's determination of noncompliance and provide the employer with 30 days to cure the noncompliance.[62]

If the department determines that an employer failed to use the E-Verify system as required under s. 448.095, F.S., three times in any 24-month period, the department must impose a fine of $1,000 per day until the employer provides sufficient proof to the department that the noncompliance is cured.[63] Noncompliance constitutes grounds for the suspension of all licenses issued by a licensing agency subject to ch. 120, F.S., until the noncompliance is cured.[64]

Section 448.095(4) establishes the following defenses for employers:

- An employer that complies with the E-Verify laws establishes an affirmative defense that the employer has not violated s. 448.09, F.S., which prohibits employment of unauthorized aliens, with respect to such employment.
- An employer that uses the E-Verify system or, if that system is unavailable, the Employment Eligibility Verification form (Form I-9) as provided in paragraph (2)(c), with respect to the employment of an unauthorized alien has established a rebuttable presumption that the employer has not violated s. 448.09 with respect to such employment.

Section 448.09, F.S., provides it is unlawful for any person to knowingly employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within this state, an alien who is not duly authorized to work by the immigration laws of the United States, the Attorney General of the United States, or the United States Secretary of the Department of Homeland Security.

If the department finds or is notified by an entity specified in s. 448.095(3)(a), F.S., that an employer has knowingly employed an unauthorized alien without verifying the employment eligibility of such person, the department must enter an order pursuant to ch. 120, F.S., making such determination and require repayment of any economic development incentive pursuant to s. 288.061(6), F.S.

If an employer violates s. 448.09, F.S., the department must place the employer on probation for a 1-year period and require that the employer report quarterly to the department to demonstrate compliance with the requirements ss. 448.09(1) and s. 448.095, F.S. Any violation of s. 448.09, F.S., which takes place within 24 months after a previous violation constitutes grounds for the suspension or revocation of all licenses issued by a licensing agency subject to chapter 120, F.S. The department shall take the following actions for a violation involving:

- One to ten unauthorized aliens, suspension of all applicable licenses held by a private employer for up to 30 days by the respective agencies that issued them.
- Eleven to fifty unauthorized aliens, suspension of all applicable licenses held by a private employer for up to 60 days by the respective agencies that issued them.

[62] Section 448.095(6), F.S.
[63] *Id.*
[64] *Id.*

- More than fifty unauthorized aliens, revocation of all applicable licenses held by a private employer by the respective agencies that issued them.

Further, an alien who is not duly authorized to work by the immigration laws of the United States, the Attorney General of the United States, or the United States Secretary of the Department of Homeland Security and who knowingly uses a false identification document or who fraudulently uses an identification document of another person for the purpose of obtaining employment commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Florida Workers' Compensation System

Chapter 440, F.S., governs the administration of the workers' compensation system in Florida. The Division of Workers' Compensation within the Department of Financial Services (DFS) is responsible for providing regulatory oversight of the system. Ch. 440, F.S., is the exclusive remedy for injured employee's remedy for compensable workplace injuries.[65] Generally, an accidental injury or death arises out of employment if work performed in the course and scope of employment is the major contributing cause of the injury or death.[66]

For work-related injuries sustained by employees,[67] workers' compensation insurance provides medically necessary remedial treatment, care, and attendance, including medicines, medical supplies, durable medical equipment, and prosthetics.[68] Further, ch. 440, F.S., provides compensation for disability when the injury causes the employee to miss more than 7 days of work.[69] Carrier is defined to mean any person or fund authorized under s. 440.38, F.S., to insure under ch. 440, F.S., and includes a self-insurer, and a commercial self-insurance fund authorized under s. 624.462, F.S.

Section 440.11, F.S., provides that the liability of an employer for workers' compensation benefits shall be exclusive and in place of all other liability of such employer to the employee or his or her dependents or to anyone otherwise entitled to recover damages. However, immunity does not apply if the employer has engaged in any intentional act that causes harm.[70] Another exception is provided in the case an employer fails to secure payment of compensation as required by ch. 440, F.S., in which case an injured employee may elect to claim compensation

[65] "Compensable" means a determination by a carrier or judge of compensation claims that a condition suffered by an employee results from an injury arising out of and in the course of employment. s. 440.13(1)(d), F.S.
[66] Section 440.02(36), F.S.
[67] The workplace injury must be the "major contributing cause" of any resulting injuries and remain the major contributing cause. "Major contributing cause" is the cause which is more than 50% responsible for the injury as compared to all other causes combined for which treatment or benefits are sought. See s. 440.09(1), F.S.
[68] Section 440.13(2), F.S.
[69] Section 440.12, F.S.
[70] Section 440.11(b), F.S.,

under ch. 440, F.S. or maintain an action at law for damages.[71] The Office of Judges of Compensation Claims is responsible for resolving workers' compensation benefit disputes.[72]

Notice of Injury

Pursuant to s. 440.185, F.S., an employee who suffers an injury arising out of and in the course of employment must notify his or her employer within 30 days after the date of or the initial manifestation of the injury. Further, within seven days after knowledge of the injury or death, the employer must report the injury to the carrier.

Benefits for Unauthorized Aliens

Currently, unauthorized aliens are not precluded from receiving benefits for compensable, work-related injuries under Florida's workers' compensation law. The definition of the term, "employee," includes "any person who receives remuneration from any employer…whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors."[73]

One major exception to this compensability is the fraud defense. An employee is not entitled to compensation or benefits under ch. 440, F.S., if a judge of compensation claims, administrative law judge, court, or jury convened in this state determines that the employee has knowingly or intentionally engaged in any of the prohibited acts described in s. 440.105, F.S., or any criminal act for the purpose of securing workers' compensation benefits.[74] A person violating any provision of s. 440.105(4), F.S., commits insurance fraud. Section 440.105(4)(b)9., F.S., provides it is unlawful for any person:

> To knowingly present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of identity for the purpose of obtaining employment or filing or supporting a claim for workers' compensation benefits.

Section 440.105(3)(b), F.S., provides that it is a first-degree misdemeanor for an employer to commit the following act:

> It shall be unlawful for any employer to knowingly participate in the creation of the employment relationship in which the employee has used any false, fraudulent, or misleading oral or written statement as evidence of identity.

In *Gene's Harvesting v. Rodriquez*, the First District Court of Appeal found that the workers' compensation law did not exclude from coverage workers not lawfully immigrated so that an alien was entitled to workers' compensation benefits for a work-related injury even though he or she was not authorized to be in the country.[75] In 1989, the Florida Supreme Court struck down a provision in the law that had limited death benefits for nonresident alien beneficiaries of

[71] Section 440.11(1), F.S. Employers who fail to obtain required workers' compensation coverage may be sued by an injured worker in civil court. Likewise, an employee who is either exempt or excluded from workers' compensation coverage requirements may sue their employer in civil court for work-related injuries, even if the employer has coverage for their other employees.
[72] Section 440.192, F.S.
[73] Section 440.02(15)(a), F.S.
[74] Section 440.09(4)(a), F.S.
[75] See Gene's Harvesting *v. Rodriguez,* 421 So.2d 701 (Fla. 1st DCA 1982). See also, Cenvill Development Corp. v. Candelo, 478 So.2d 1168 (Fla. 1st DCA 1985).

deceased workers who were not residents of Canada to $1,000, rather than the $100,000 otherwise available, as violative of both Federal and state equal protection provisions.[76]

In *Matrix Employee Leasing v. Hernandez,*[77] the court concluded it was "clear that claimant violated s. 440.105(4)(b)(9), by procuring work with a false social security card." However, the First District Court concluded that this violation did not preclude entitlement to workers' compensation benefits by Hernandez. The record contains no evidence that the claimant violated s. 440.105(4)(b)9, F.S., for the purpose of securing workers' compensation benefits.

In 2011, the District Court of Appeals heard a case involving an injured worker who was an unauthorized alien. The Judge of Compensation Claims (JCC) found that the employer knew or should have known that a claimant, an unauthorized immigrant from Mexico, was without the legal right to work in the United States. The JCC further found that, notwithstanding this knowledge, the employer hired and continued to unlawfully employ claimant, until he was injured in a significant workplace accident. After claimant suffered injury, the employer and its workers' compensation carrier attempted to assert, as a defensive matter, claimant's unauthorized status to defeat a claim for permanent total disability (PTD) benefits. The Court noted the employer could have avoided the entirety of the loss by refraining from knowingly hiring illegal labor.[78]

In *State of Florida v. Brock*,[79] the defendant applied for a job but used a social security number that was not issued to him. He did not file a workers' compensation claim, but was charged with one count of fraud under s. 440.104(4)(b)(9), F.S. The circuit court dismissed the charges against the defendant on the grounds that ch. 440, F.S., is an insurance coverage and regulation statute. In April 2014, the Fourth District Court of Appeals reversed the trial court's dismissal, and opined that s. 440.105(4)(b)9, F.S., makes it a crime to "present . . . any false, fraudulent, or misleading oral or written statement to any person as evidence of identity for the purpose of obtaining employment . . . ." Further, the fact that this clause is followed by the word "or" is important as it indicates the statute may be violated in more than one way: by presenting false or fraudulent documents for the purpose of obtaining employment or providing the false or fraudulent documents to file or support a workers' compensation claim.[80]

The Office of Insurance Regulation

Florida's Office of Insurance Regulation (OIR)[81] is responsible for the regulation of all activities of insurers and other risk-bearing entities, including licensure, rates,[82] policy forms, market

[76] *De Ayala v. Florida Farm Bureau Casualty Insurance Co*., 543 So.2d 204 (Fla. 1989).
[77] *Matrix Employee Leasing v. Hernandez* 975 So. 2d 612 (Fla. 2008).
[78] *HDV Const. Systems, Inc. v. Aragon,* 66 So.3d 331 (1st Dist. 2011).
[79] *State of Florida v. Brock,* 39 Fla. L. Weekly D907 (4th DCA April 30, 2014). On December 30, 2014, the Florida Supreme court declined to accept jurisdiction and ordered that the petition for review denied.
[80] *Id.*
[81] The OIR is an office under the Financial Services Commission (commission), which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. Section 20.121(3), F.S., provides that the commission is the agency head for purposes of rulemaking. The commission is not subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters. Section 20.121(3), F.S.
[82] Pursuant to s. 627.062(1), F.S., rates may not be excessive, inadequate, or unfairly discriminatory.

conduct, claims, solvency, administrative supervision, as provided under the Florida Insurance Code (code).[83]

Florida's Financial Responsibility Law

The Florida's financial responsibility law requires drivers of motor vehicles with four or more wheels to purchase both personal injury protection (PIP) and property damage liability (PD) insurance.[84] Personal injury protection (PIP) insurance compensates insureds injured in accidents regardless of fault.[85] The intent of no-fault insurance is to provide prompt medical treatment without regard to fault.[86] This coverage also provides policyholders with immunity from liability for economic damages up to the policy limits and limits tort suits for non-economic damages (pain and suffering) below a specified injury threshold.[87]

In Florida, PIP must provide a minimum benefit of $10,000 for bodily injury to any one person who sustains an emergency medical condition, which is reduced to a $2,500 limit for medical benefits if a treating medical provider does not determine an emergency medical condition existed.[88] PIP coverage provides reimbursement for 80 percent of reasonable medical expenses,[89] 60 percent of loss of income,[90] and 100 percent of replacement services,[91] for bodily injury sustained in a motor vehicle accident, without regard to fault. A $5,000 death benefit is also provided.[92] The property damage liability coverage must provide a $10,000 minimum benefit.

Office of Financial Regulation

The Florida Office of Financial Regulation (OFR) is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.[93] The OFR has three divisions: the Division of Consumer Finance, the Division of Financial Institutions (DFI), and the Division of Securities.

Regulation of Money Services Businesses

The Division of Consumer Finance 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. A money transmitter receives currency, monetary value, a payment instrument,[94] or virtual currency for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or

[83] Section 20.121(3)(a)1., F.S.
[84] *See* ss. 324.022, F.S. and 627.733, F.S.
[85] Section 627.733, F.S.
[86] *See* s. 627.731, F.S.
[87] Section 627.737, F.S.
[88] Section 627.736(1), F.S.
[89] Section 627.736(1)(a), F.S.
[90] Section 627.736(1)(b), F.S.
[91] *Id.*
[92] Section 627.736(1)(c), F.S.
[93] Section 20.121(3)(a)2., F.S.
[94] Section 560.103(29), F.S.

through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country.[95] The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction. s. 560.103(24), F.S. A payment instrument seller sells, issues, provides, or delivers a payment instrument.[96] State and federally chartered depository institutions, such as banks and credit unions, are exempt from licensure as an MSB.[97]

As of January 2026, there were a total of 314 money transmitters licensed by OFR. In the fiscal year 2024-2025, money transmitters reported over 135 million foreign outbound transmissions. According to quarterly reports filed by money transmitters for fiscal year 2024-25, 111 of the 314 money transmitters reported transmissions to countries other than the United States. Presently, chapter 560, F.S., does not require money transmitters to verify that a sender of a foreign remittance transfer, as that term is defined in the Electronic Fund Transfer Act, 15 U.S.C. s. 1693o-1, is not an "unauthorized alien," as that term is defined in s. 908.111, F.S.[98]

For each money transmission of less than $3,000, a money transmitter is required to maintain, among other things, records of the sender's name, the transaction amount, and the transaction date. However, a money transmitter is not required to maintain records of the date or birth or address of the sender. For each money transmission in the amount of $3,000 or more, a money transmitter is required to maintain, among other things, records of the sender's name, the sender's address, the transaction amount, and the transaction date. However, a money transmitter is not required to maintain records of the sender's date or birth.

For payment instruments exceeding $1,000, a customer is required to present personal identification to enter into a transaction with a check casher. The check casher must maintain a copy of the personal identification. Acceptable forms of personal identification include a valid driver's license; state identification card issued by any U.S. state or its territories or the District of Columbia, showing a photograph and signature; a United States Government Resident Alien Identification Card; a passport; or a United States Military Identification card. A check casher is required to maintain a customer file on all customers who cash corporate payment instruments that exceed $1,000.

While MSBs are generally subject to federal anti-money laundering laws,[99] 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.[100] 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

[95] Section 560.103(24), F.S
[96] Section 560.103(29),(30) and (34), F.S.
[97] Section 560.104, F.S.
[98] The term "unauthorized alien" means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations. s. 908.111(1)(d), F.S.
[99] 31 C.F.R. pt. 1022.
[100] Section 560.1401, F.S.

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.[101]

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.[102] 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.[103]

Money transmitters who violate chapter 560, F.S., are subject to disciplinary action pursuant to section 560.114, F.S., which includes but not limited to, the imposition of administrative fines, license revocation, and/or license suspension. License revocations, license suspensions, and the imposition of administrative fines are effectuated through the issuance of an administrative complaint, as required by chapter 120, F.S. Licensees are subject to examination every five years, must retain records for a period of five years, and must make requested records available to OFR for examination and investigation within three business days after receipt of a written request. 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.[104]

Regulation of Financial Institutions

The Division of Financial Institutions is responsible for oversight of state-chartered financial institutions. Florida law defines the term "financial institution" broadly; the term includes "state and federal savings or thrift associations, banks, savings banks, trust companies, international bank agencies, international banking corporations, international branches, international representative offices, international administrative offices, international trust entities, international trust company representative offices, qualified limited service affiliates, credit unions, agreement corporations operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. and Edge Act corporations organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq."[105]

Banks and credit unions in the United States are chartered and regulated under a dual regulatory system. These depository institutions may elect to have a national charter and a federal primary regulator, or they may choose to be chartered and regulated by the state in which they are headquartered. OFR's DFI provides general supervision over all Florida-chartered financial institutions, along with their subsidiaries and service corporations.[106] DFI is tasked with the administration of the financial institutions codes,[107] which apply to all Florida state-authorized or state-chartered financial institutions and to the enforcement of all laws relating to Florida state-authorized or state-chartered financial institutions.[108]

[101] Section 560.123, F.S
[102] *Id.*
[103] Section 560.114, F.S.
[104] *Id.*
[105] Section 655.005(1)(i), F.S.
[106] Section 655.012(1), F.S.
[107] Sections 655.001(1) and 655.012(1), F.S.
[108] *Id*.

As a result of the dual regulatory system, the OFR does not have absolute regulatory authority over every financial institution operating in Florida. Florida-chartered depository institutions (banks and credit unions) are chartered by the OFR, but are additionally required to obtain deposit insurance,[109] and thus are also subject to examination and regulation by federal regulatory authorities. While the Federal Reserve serves as the primary federal regulator of a state bank which has elected to become a member bank of the Federal Reserve System,[110] the FDIC remains the primary federal regulator for non-member state-banks and remains authorized to make special examination of any insured bank when necessary. Likewise, state-chartered credit unions are subject to examination and regulation by the National Credit Union Administration (NCUA).[111]

National banks are chartered pursuant to the National Bank Act and supervised by the Office of the Comptroller of the Currency (OCC).[112] National banks are required to be members of the Federal Reserve System; state banks may apply for membership.[113] The Federal Reserve system is the primary federal regulator of state member banks, and also serves as the primary regulator of bank holding companies and financial holding companies.[114] Federally-chartered credit unions are chartered and supervised by the National Credit Union Administration.[115] Both state- and federally-chartered credit unions must obtain insurance of their accounts and are subject to examination by the NCUA.[116]

Customer Identification Program. One of the most important means by which financial institutions can hope to avoid criminal exposure to the institution by customers who use the resources of the institution for illicit purposes is to have a clear and concise understanding of the customer practices. A bank must have a written customer identification program[117] that is appropriate for its size and type of business and that includes certain minimum requirements. The customer identification procedures (CIP)[118] must be incorporated into the bank's BSA/AML[119] compliance program,[120] which is subject to approval by the bank's board of directors.[121]

[109] Section 658.38, F.S.
[110] 12 U.S.C. s. 248.
[111] Section 657.033, F.S.; 12 U.S.C. s. 1784.
[112] 12 U.S.C. s. 481.
[113] 12 U.S.C. s. 208.3 and 222.
[114] 12 U.S.C. s. 248.
[115] *See* 12 U.S.C. s. 1751, et. seq.
[116] Section 657.033, F.S.; 12 U.S.C. s. 1784.
[117] *See* 12 CFR 208.63(b)(2), 211.5(m)(2), and 211.24(j)(2) (Federal Reserve); 12 CFR 326.8(b)(2) (FDIC); 12 CFR 2 12 12 CFR 748.2(b)(2) (NCUA); 12 CFR 21.21(c)(2) (OCC); and 31 CFR 1020.220 (FinCEN).
[118] FFIEC BSA/AML Examination Manual, Customer Identification Program (Feb. 2021) Customer Identification Program (last visited Feb. 6, 2026).
[119] Bank Secrecy Act/Anti-money laundering laws and regulations overseen by the Financial Crimes Enforcement Network.
[120] 12 CFR 208.63(b)(2), 211.5(m)(2), and 211.24(j)(2) (Federal Reserve); 12 CFR 326.8(b)(2) (FDIC); 12 CFR 748.2(b)(2) (NCUA); 12 CFR 21.21(c)(2) (OCC); and 31 CFR 1020.220 (FinCEN).
[121] 12 CFR 208.63(b), 211.5(m), and 211.24(j) (Federal Reserve); 12 CFR 326.8(b) (2) (FDIC); 12 CFR 748.2(b) (NCUA); 12 CFR 21.21 (OCC)

A bank relying on documents to verify a customer's identity must have procedures that set forth the documents that the bank will use.[122] The CIP rule gives examples of the types of documents that may be used to verify a customer's identity. The rule reflects the federal banking agencies' expectations that, for most customers who are individuals, banks review an unexpired government-issued form of identification evidencing a customer's nationality or residence and bearing a photograph or similar safeguard; examples include a driver's license or passport. However, other forms of identification may be used if they enable the bank to form a reasonable belief that it knows the true identity of the customer. Given the availability of counterfeit and fraudulently obtained documents, a bank is encouraged to review more than a single document to ensure it can form a reasonable belief that it knows the true identity of the customer.

A bank using non-documentary methods to verify a customer's identity must have procedures that set forth the methods the bank uses.[123] Non-documentary methods may include contacting a customer; independently verifying the customer's identity through the comparison of information provided by the customer with information obtained from a consumer reporting agency, public database, or other source; checking references with other financial institutions; and obtaining a financial statement.[124]

If the bank uses non-documentary methods to verify a customer's identity, the bank's procedures must address situations in which an individual is unable to present an unexpired government-issued identification document that bears a photograph or similar safeguard; the bank is not familiar with the documents presented; the account is opened without obtaining documents; the customer opens the account without appearing in person at the bank; and where the bank is otherwise presented with circumstances that increase the risk that the bank will be unable to verify the true identity of a customer through documents.[125]

III. Effect of Proposed Changes:

Section 1 creates s. 17.72, F.S., relating to DFS, to prohibit the Department of Financial Services (DFS) from issuing a license or certification to any person who is an unauthorized alien as defined in s. 908.111(1), F.S., to mean a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The section authorizes DFS to adopt rules to establish criteria before issuing any license or certification.

Section 2 amends s. 128.0167, F.S., relating to loans to low-income and moderate-income borrowers financed through a Housing Assistance Loan Trust Fund which utilizes revenues from a discretionary document surtax, to mandate a county must require that a borrower receiving financial assistance must provide proof that the borrower is lawfully present in the United States (U.S.)

Section 3 creates s. 284.52, F.S., to provide that the Division of Risk Management of DFS may approve or deny a claim relating to an unauthorized alien who is a minor. However, the division

[122] 31 CFR 1020.220(a)(2)(ii)(A).
[123] 31 CFR 1020.220(a)(2)(ii)(B).
[124] 31 CFR 1020.220(a)(2)(ii)(B)(1).
[125] 31 CFR 1020.220(a)(2)(ii)(B)(2).

may not approve a claim submitted by an unauthorized alien who is an adult or by a person who fails to provide lawful documentation of citizenship to the division pursuant to state and federal law.

Chapter 284, F.S., provides the mechanism through which the state insures its workers and real and personal property. The State Risk Management Trust Fund insures properties which are owned by the state or its agencies, boards, or bureaus against loss from fire, lightning, sinkholes, and hazards customarily insured by extended coverage and loss from the removal of personal property from such properties when endangered by covered perils. The Insurance Risk Management Trust Fund generally covers all departments of the State of Florida and their employees, agents, and volunteers and must provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, state agency firefighter cancer benefits payable under s. 112.1816(2), and court-awarded attorney fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. The chapter also authorizes the procurement of excess insurance coverages.

The provisions of the bill would prohibit the payment of, for example, a liability insurance claim related to an auto accident related to a state-owned vehicle or a state worker if the claim is submitted by an adult unauthorized alien or a person who fails to provide lawful documentation of citizenship to the Division of Risk Management.

Section 4 amends s. 322.53, F.S., relating to commercial motor vehicle licensure, to require all licensing procedures, prelicensing instruction, and licensing testing under this chapter must be conducted in English. The provision also prohibits the use of interpreters, translators, translations, or alternative language accommodations.

Section 5 creates s. 420.56, F.S., relating to down payment assistance, to prohibit state and local governmental entities, the corporation, and private corporations, including nonprofit organizations incorporated under ch. 617, F.S., participating in down payment assistance programs or silent second mortgage assistance programs from providing any form of down payment assistance to a person who is an unauthorized alien. The term, governmental entities, is not defined. The term, local government, is defined in s. 420.503, F.S.

The term, "down payment assistance," includes, but is not limited to, grants to assist a person in the purchase of a residential property which takes the form of a loan or a silent second mortgage.

The term, "silent second mortgage," means a second mortgage used to secure funds for a down payment for a residential property which is not disclosed to the original mortgage lender before closing occurs.

The section provides that if an unauthorized alien is found to have received down payment assistance from any of the entities described above, the unauthorized alien must immediately repay the down payment assistance to the applicable entity or corporation. If the unauthorized alien does not repay the downpayment assistance, the state or local governmental entity, the

corporation, or the private corporation must initiate foreclosure proceedings pursuant to ch. 702, F.S., against the unauthorized alien.

Section 6 amends s. 420.5088, F.S., relating to the Florida Homeownership Assistance Program administered by the Florida Housing Finance Corporation, to revise the purpose of the program, which is to assist low-income and moderate-income persons, to provide that these persons must be lawfully present in the U.S. The section provides that the loans made available pursuant to s. 420.507(23)(a)1. or 2., F.S,, and must be limited to persons or families who are lawfully present in the U.S. The corporation is authorized to underwrite and make such loans to persons or families lawfully present in the U.S.

For loans made available pursuant to s. 420.507(23)(a)3., F.S., only persons or families who are lawfully present in the U.S. are eligible.

The loans referred to in s. 420.507(23)(a) are:
1. Subordinated loans to eligible borrowers for down payments or closing costs related to the purchase of the borrower's primary residence.
2. Permanent loans to eligible borrowers related to the purchase of the borrower's primary residence.
3. Subordinated loans to nonprofit sponsors or developers of housing for purchase of property, for construction, or for financing of housing to be offered for sale to eligible borrowers as a primary residence at an affordable price.

Section 7 amends s. 420.5096, F.S., relating to the Florida Hometown Hero Program administered by the Florida Housing Finance Corporation, to provide that the program may only provide financial assistance to a borrower who is lawfully present in the U.S. Under the program, a borrower may receive a loan to reduce the amount of the down payment and closing costs paid by the borrower by a minimum of $10,000 and up to 5 percent of the first mortgage loan, not exceeding $35,000. Program loans must be made available at a zero percent interest rate and must be made available for the term of the first mortgage.

Section 8 amends s. 440.02(18), F.S., the definition of employee under the Workers' Compensation Law, to require that an employee who is an alien must be authorized for employment pursuant to federal law and an employee includes a lawful or unlawfully employed minor. Current law provides that an employee includes lawfully or unlawfully employed aliens and minors.

Under the bill, an adult worker who is an unauthorized alien will not be covered under the employer's workers' compensation policy. As a result, the injured worker would likely be able to pursue a tort action in civil courts, as workers' compensation would not be the exclusive remedy for the worker's damages. The employer likely will not have insurance coverage and be personally liable if at fault for the injured worker's injuries. The unauthorized alien would also be able to recover pain and suffering damages in a tort action against the employer; lawfully employed injured workers cannot recover such damages under the workers' compensation system which only provides medical benefits, lost wages, and disability benefits.

Section 9 amends s. 440.10(2), F.S., to exempt benefits payable pursuant to s. 440.1001, F.S., (created by Section 10 of the bill) from the requirement that workers' compensation benefits are payable irrespective of fault.

Section 10 creates s. 440.1001, F.S, relating to employer liability for unauthorized aliens, to provide that an employer who knowingly hires or employs an individual who is not authorized to work in the U.S. under federal law is personally and fully liable for all medical and treatment costs and related expenses resulting from an injury sustained by the unauthorized alien during his or her employment. Further, the section prohibits an employer from transferring or shifting such financial responsibility for medical and treatment costs and related expenses resulting from an injury to any third party, including an insurer, a state agency, or any other entity.

An employer that violates this section is subject to the following penalties:
- A fine not to exceed $50,000 per violation, and such funds must be deposited into the Workers' Compensation Administration Trust Fund.
- Reimbursement of any public funds expended to provide medical care to the unauthorized alien.
- Revocation of the employer's business license, registration, or certification issued by the appropriate licensing authority.

Lastly, the section requires DFS to transfer reported violations of this section to the appropriate licensing authority for enforcement.

Section 11 creates s. 440.1002, F.S., relating to eligibility for purposes of workers' compensation, to require an employer to verify an employee's employment eligibility through the E-Verify system before submitting a claim. If an employer fails to verify an employee's employment eligibility through the E-Verify System, the employer is:
- Ineligible to receive indemnity or medical coverage from the carrier for injuries sustained by the employee.
- Personally liable for all costs, expenses, and benefits that would been compensable under ch. 440, F.S.

The section requires an employer to retain a copy of the documentation provided and verification generated, if applicable, by the E-Verify system for each employee. Further, an employer must provide such documentation or verification to DFS or the carrier upon request.

The DFS is authorized to adopt rules to implement and enforce this section. The section provides that this section may not be construed to bestow any employment rights or legal status on an employee who is verified through the E-Verify system.

Section 12 creates s. 448.09, F.S., which prohibits knowingly hiring, employing, recruiting, or referring for employment unauthorized aliens, to provide:
- For a first violation, if an employer knowingly violates this section, the Department of Commerce (commerce) must suspend for one year all licenses held by the employer which were issued by a licensing agency under ch. 120, F.S., and impose a fine not to exceed $10,000 per violation.

- For a second violation, commerce must suspend for five years all licenses of the employer, which were issued by a licensing agent under ch. 120, F.S., and impose a fine not to exceed $100,000 per violation.
- For a third violation, commerce must permanently revoke all licenses held by the employer personally, as well as any licenses held by the entity if the employer was a corporation, which were issued by a licensing agency under ch. 120, F.S., and impose a fine not to exceed $250,000 per violation.
- For an employer who knowingly violates this section and the actions of an unauthorized alien employee results in injuries to another person, the commerce must permanently revoke all licenses held by the employer which were issued by a licensing agent under ch. 120, F.S. and impose a fine not to exceed $500,000 per violation.
- For an employer who knowingly violates this section and the actions of an unauthorized alien employee result in the death of another person, commerce shall permanently revoke all licenses held by the employer which were issued by a licensing agency under ch. 120, F.S., and impose a fine not to exceed $500,000 per violation.
- Fines collected pursuant to this section must be deposited into the State Economic Enhancement and Development Trust Fund.
- An employer who knowingly hires more than 50 unauthorized aliens commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, 691 and the department shall permanently revoke all licenses held by the employer personally, as well as any licenses held by the entity if the employer is a corporation, which were issued by a licensing agency under ch. 120, F.S.
- There is created a civil cause of action against an employer who violates this section if such violation results in injuries to or the death of another person.
- A person who is injured or the next of kin, as defined in s. 744.102, of a person who is killed by the actions of an unauthorized alien employee may bring a cause of action against the employer for damages for bodily injury or death.

Section 13 amends s. 448.095, F.S., to add DFS to the list of state agencies authorized to access the E-Verify database.

Sections 14 and 15 amend s. 560.208 and 560.211, F.S., relating to payment instruments and funds transmission under part II of ch. 560, F.S., to prohibit money transmitters from initiating a foreign remittance transfer to a recipient located in a country other than the United States (U.S.), unless the licensee has verified that the sender of the remittance transfer, as that term is defined in the Electronic Fund Transfer Act, 15 U.S.C. s. 1693o-1, is not an unauthorized alien as that term is defined in s. 908.111, F.S. Confirmation of verification must be provided to OFR on a quarterly basis by the 15th of the month following the end of the quarter on forms adopted via commission rule.

The bill provides that licensees who initiate a foreign remittance transfer to a recipient located in a country other than the U.S., without verifying that the sender is not an unauthorized alien, must pay a monetary penalty of 25 percent of the U.S. dollar amount transferred. Monetary penalties must be remitted to OFR on a quarterly basis by the 15th of the month following the end of the quarter and deposited into the Regulatory Trust Fund. The Financial Services Commission is authorized to adopt forms for the purpose of penalty remittance. Licensees who initiate a foreign

remittance transfer in violation of the new provisions, who fail to timely remit the monetary penalty, and who fail to timely provide confirmation of verification to OFR on forms adopted via commission rule may only remedy such violations by payment of the aforementioned 25 percent penalty.

In addition to other records required to be retained under chapter 560, F.S., licensees must retain for a period of 5 years the documentation used to determine whether the sender of a foreign remittance transfer is not an unauthorized alien, and records of monetary penalties paid to OFR, including the date and amount of each foreign remittance transfer; and the name, date of birth, and address of each sender.

Section 16 creates s. 560.2115, F.S., relating to required records audit of licensees engaging in foreign remittance transfers. The OFR is authorized to request at any time, and the licensee must provide, records of documentation used to verify that the sender of a foreign remittance transfer is not an authorized alien, as that term is defined in s. 908.111, F.S.

A person who has a good faith belief that a licensee failed to verify a sender's residency status as required by the bill, may file a complaint with OFR. If the complaint is deemed valid, OFR must notify the licensee of the complaint and direct the licensee to pay a monetary penalty of 25 percent of the U.S. dollar amount transferred. It is unclear whether this directive would run afoul of chapter 120, F.S., which mandates that an agency must provide a clear point of entry (e.g. the issuance of an administrative complaint) for all persons whose substantial interests are affected.

Beginning July 1, 2026, OFR must conduct random quarterly audits of licensees, as part of its five-year examination mandate, to determine compliance with the foreign remittance transfer sender verification requirements. Licensees who fail to produce sender verification records are subject to suspension of all licenses issued by OFR. Currently, OFR examines each licensee every five years.

Section 17 amends s. 560.310, F.S., relating to records of check cashers and foreign currency exchangers. The bill requires a customer to present personal identification for payment instruments that are $1,000 or more. However, the following personal identification may not be presented and used as identification by a customer:

- A license or identification card issued exclusively to an unauthorized alien or undocumented immigrant.
- A license or identification card that is substantially the same as a license or identification card issued to a U.S. citizen or resident or others lawfully present in the U.S., but which has markings establishing that the license holder did not present proof of his or her lawful presence in the U.S.

The bill requires a check casher to maintain a customer file on all customers who cash corporate payment instruments that are $1,000 or more. Currently, a check casher is required to maintain a customer file on all customers who cash corporate payment instruments that exceed $1,000.

Currently, for payment instruments exceeding $1,000, a customer is required to present certain personal identification, such as a valid driver license, a state identification card issued by any state of the U.S. or its territories or the District of Columbia, and showing a photo identification

and signature, a U.S. government Resident Alien identification card, a passport, or a U.S. military identification card to enter into a transaction with a check casher and the check casher must maintain a copy of the personal identification.

Unauthorized Out-of-State-Drivers; Personal Injury Protection

Section 18 creates s. 627.7408, F.S., to provide for the presumption of fault in motor vehicle accidents involving unauthorized out-of-state drivers. The bill defines an "unauthorized out-of-state driver" to mean a person operating a vehicle who has an invalid out-of-state driver license.

The bill defines an "invalid out-of-state driver license" as a license deemed invalid under s. 322.033, F.S., which deems invalid in this state a driver license that is of a class of licenses issued by another state exclusively to unauthorized aliens or undocumented immigrants who are unable to prove lawful presence in the United States when the licenses are issued, the driver license, or other permit purporting to authorize the holder to operate a motor vehicle on public roadways. Such classes of licenses include licenses that are issued exclusively to unauthorized aliens or undocumented immigrants or licenses that are substantially the same as licenses issued to citizens, residents, or those lawfully present in the United States but have markings establishing that the licenseholder did not exercise the option of providing proof of lawful presence.

The bill provides a rebuttable presumption[126] that an unauthorized out-of-state driver involved in a motor vehicle accident in Florida is at fault for the accident for purposes of filing an insurance claim, regardless of the unauthorized out-of-state driver's compliance with other traffic laws at the time of the accident. This presumption does not apply if:

- The other driver involved in the accident is found to have been operating the motor vehicle while under the influence of alcoholic beverages, any chemical substance under s. 877.111, F.S., or any controlled substance under ch. 893, F.S.
- The other driver involved in the motor vehicle accident is determined, by clear and convincing evidence, to be at egregious fault because of, but not limited to, reckless driving in violation of s. 316.192, F.S., leaving the scene of an accident in violation of s. 316.027, F.S., or racing on highways in violation of s. 316.191, F.S.

The presumption may be rebutted by clear and convincing evidence[127] that the unauthorized out-of-state driver was not at fault based on factors such as witness statements, accident

[126] In Florida, every rebuttable presumption is either:
(1) A presumption affecting the burden of producing evidence and requiring the trier of fact to assume the existence of the presumed fact, unless credible evidence sufficient to sustain a finding of the nonexistence of the presumed fact is introduced, in which event, the existence or nonexistence of the presumed fact shall be determined from the evidence without regard to the presumption; or
(2) A presumption affecting the burden of proof that imposes upon the party against whom it operates the burden of proof concerning the nonexistence of the presumed fact. Section 90.302, F.S.

[127] Florida Standard Jury Instruction (Civil) 414.3 defines "clear and convincing evidence" as evidence that is precise, explicit, and lacks confusion, producing a firm belief or conviction without hesitation. It is more demanding than the "preponderance of the evidence" (more likely than not) but lower than "beyond a reasonable doubt". https://media.floridabar.org (last visited February 5, 2026).

reconstruction, or video evidence directly related to the circumstances of the motor vehicle accident.

Upon investigation of a motor vehicle accident, a law enforcement officer must verify whether any person involved in the motor vehicle accident is an unauthorized out-of-state driver or has an invalid out-of-state driver license. If a driver is determined to be in violation of s. 322.033, F.S., and he or she does not qualify for an exemption, the law enforcement officer must note the presumption of fault on the Florida Traffic Crash Report, Long Form or short-form crash report, as applicable, and notify the Department of Highway Safety and Motor Vehicles within 48 hours after the accident.

Motor vehicle insurers must apply the presumption in processing claims and may not pay benefits to or settle claims with an unauthorized out-of-state driver. The insurer must report any suspected noncompliance or rebuttal attempts by the unauthorized out-of-state driver to the Office of Insurance Regulation (OIR) within 30 days after the filing of an insurance claim. An insurer that fails to comply with this subsection is subject to administrative penalties under s. 624.4211, F.S. (administrative fines). If an unauthorized out-of-state-driver's insurer is a foreign insurer as defined in s. 624.06(2), F.S., and is not licensed in Florida under ch. 624, F.S., any party aggrieved by the nonenforcement of this section may bring a civil action for injunctive relief and the prevailing party is entitled to reasonable attorney fees and costs.

The bill requires the Department of Highway Safety and Motor Vehicles and OIR to adopt rules to implement this section, including standardized verification forms and procedures for interagency coordination. The section applies to all insurance policies issued or renewed on or after the effective date of the bill and to all motor vehicle accidents occurring on or after the effective date of the bill. The section may not be construed to interfere with or limit a law enforcement officer's authority delegated under a 287(g) agreement with United States Immigration and Customs Enforcement.[128]

Section 19 creates s. 655.98, F.S., relating to prohibited forms of identification for state-chartered financial institutions, to prohibit such institutions from accepting a license or identification card issued exclusively to an unauthorized alien or undocumented immigrant or a license or identification card issued to a U.S. citizen or resident or others lawfully present in the U.S. but which has markings establishing that the license holder did not present proof of his or her lawful presence in the U.S.

Section 20 directs the Division of Law Revision to replace the phrase, "the effective date of this act," wherever it occurs in this act with the date this act becomes a law.

Section 21 provides the bill takes effect upon becoming a law.

[128] An agreement delegating to state and local law enforcement officers the authority to perform specified immigration officer functions under the direction and oversight of U.S. Immigration and Customs Enforcement. https://www.ice.gov/identify-and-arrest/287 (last visited February 5, 2026).

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:

Section 3 of the bill provides that the Division of Risk Management of the DFS may approve or deny claims relating to an unauthorized alien who is an alien. However, the section does not provide any guidance or criteria for DFS to make this decision.

The Legislature may not delegate its constitutional duties to another branch of government.[129] While the Legislature must make fundamental policy decisions, it may delegate the task of implementing that policy to executive agencies with "some minimal standards and guidelines ascertainable by reference to the enactment establishing the program."[130] Moreover, the Legislature can permit "administration of legislative policy by
an agency with the expertise and flexibility to deal with complex and fluid conditions."[131]

Florida courts have found an unlawful delegation of legislative authority in the following instances:

- Where the Legislature allowed the Department of State to "in its discretion allow
- such a candidate to withdraw…";[132] and
- Where the Legislature created a criminal penalty for escape from certain
- classifications of juvenile detention facilities, but delegated the classification (or determination whether to classify at all) to an agency.[133]

Sections 9-11 and 18 of SB 1380 substantially revise the terms and conditions for compensability and eligibility of benefits for workers' compensation insurance and personal injury protection policies, respectively. There is not an express constitutional

[129] See FLA. CONST. art. II, s. 3.
[130] Askew v. Cross Key Waterways, 372 So.2d 913, 925 (Fla. 1978).
[131] Microtel, Inc. v. Fla. Public Serv. Comm'n., 464 So.2d 1189, 1191 (Fla. 1991).
[132] Fla. Dept.. of State, Div. of Elections v. Martin, 916 So.2d 763 (Fla. 2005).
[133] D.P. v. State, 597 So.2d 952 (Fla. 1st DCA, 1992)(disapproved on other grounds).

prohibition against the retroactive application of a noncriminal statute, if a law impairs the obligations of a contract or a vested right, the law is invalid. The Florida and the United States Constitutions prohibit the state from passing a law impairing contractual obligations.[134] However, the Legislature may provide that a non-criminal law, including one that affects existing contractual obligations, apply retroactively in certain situations.[135] In determining whether a law may be applied retroactively, courts first determine whether the law is procedural, remedial, or substantive in nature.[136] A purely procedural or remedial law may apply retroactively without offending the Constitution, but a substantive law generally may not apply retroactively absent clear legislative intent to the contrary.[137] However, even where the Legislature has expressly stated that a law will have retroactive application, a court may reject that application if the law impairs a vested right, creates a new obligation, or imposes a new penalty.[138] Further, where a law is designed to serve a remedial purpose, a court may decide not to apply the law retroactively where doing so "would attach new legal consequences to events completed before its enactment."[139]

Moreover, both the Florida and United States Constitutions prohibit the taking of life, liberty, or property without due process of law.[140] The right to contract, as long as no fraud or deception is involved and the contract is otherwise legal, is both a liberty and a property right subject to due process protections, and the impairment of contracts may, in certain instances, be viewed as the taking of property without due process.[141]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 8 provides that an unauthorized alien is not an employee under the state's workers' compensation statutes. The result of this is that if the unauthorized alien has workplace injuries that are determined to the fault of the employer, the injured unauthorized alien may be able to recover more in damages than would be recoverable by a lawfully employed worker. Workers' compensation wage loss benefits are limited to 66

[134] U.S. Const. art. I, s. 10; Art. I, s. 10, Fla. Const.
[135] U.S. Const. art. I, ss. 9 and 10; Art. 1, s. 10, Fla. Const.
[136] A procedural law merely establishes the means and methods for applying or enforcing existing duties or rights. A remedial law confers or changes a remedy, i.e., the means employed in enforcing an existing right or in redressing an injury. A substantive law creates, alters, or impairs existing substantive rights. Windom v. State, 656 So. 2d 432 (Fla. 1995); St. John's Village I, Ltd. v. Dept. of State, 497 So. 2d 990 (Fla. 5th DCA 1986); McMillen v. State Dept. of Revenue, 74 So. 2d 1234 (Fla. 1st DCA 1999).
[137] State Farm Mutual Automobile Ins. Co. v. Laforet, 658 So. 2d 55 (Fla. 1995).
[138] Menendez v. Progressive Exp. Ins. Co., Inc., 35 So. 3d 873 (Fla. 2010
[139] L. Ross, Inc. v. R.W. Roberts Const. Co., 481 So. 2d 484 (Fla. 1986).
[140] U.S. Const. amends. V and XIV; Art. I, s. 21, Fla. Const.
[141] Miles v. City of Edgewater Police Dept., 190 So. 3d 171 (Fla. 1st DCA 2016); see, e.g., Griffin v. Sharpe, 65 So. 2d 751 (Fla. 1953) (finding that a statute removing a specific deed restriction's expiration date both impaired contracts and constituted a taking of private property without due process).

and 2/3 percent of the employee's average weekly wages. Lost wages could be fully recoverable in a tort action depending on the degree of fault of the employer. Additionally, losses for pain and suffering are recoverable in tort actions, but not under workers' compensation.

The sections of the bill that exclude unauthorized aliens from the workers' compensation may result in increased uncompensated care by medical providers. Many small employers have limited resources and may be unable to pay for goods and services rendered by medical providers.

Sections 14-17, relate to money services businesses (MSBs). MSBs licensed pursuant to ch. 560, F.S., do not have access to any federal database that could determine citizenship status of customers. Implementation of the bill would require the MSBs to perform citizenship verification, maintain records, respond to complaints, and face penalties tied to determinations they are not legally equipped to make. This could result in increased administrative burden, training costs, and legal exposure.

Section 18 prohibits authorized insurers from paying benefits to or settling claims with unauthorized out-of-state drivers. This could subject at-fault drivers in this state that are not unauthorized to significant extracontractual liability and subject their insurers to significant bad faith exposure. The presumptions in this section are rebuttable. Thus, the unauthorized out-of-state driver could recover damages in a civil action. Those actions could be significant and in excess of the at-fault party's insurance coverage. The statute, however, prohibits the insurer of the ultimately at-fault driver from settling with the unauthorized out-of-state driver. Thus, the insurer cannot enter a settlement that protects the financial interest of their insured in this situation. This prohibition also contradicts the insurer's duty to attempt in good faith to settle claims when, under all circumstances, it could and should do so, if acting fairly and honestly toward its insured and with due regard for her or his interests, as required in s. 624.155(1)(b), F.S.

C. Government Sector Impact:

Office of Financial Regulation (OFR).[142] In regard to the changes made to ch. 560, F.S., relating to money services businesses, the OFR would incorporate the random quarterly audit into its existing five-year examination mandate and audit a random sampling of transactions from a random quarter to determine compliance.

The bill's compliance filing provisions will require OFR to modify its current REAL system to account for the storage and processing of additional compliance records. Because of the cost required and timeframe needed to modify the REAL system, OFR would be unable to modify its current REAL system to accommodate such changes. The REAL system is set to become operational in July of 2026, to account for the storage and processing of additional compliance records. Requiring the licensee to retain the forms

[142] Office of Financial Regulation, 2026 Agency Legislative Bill Analysis of SB 1380 (Feb. 2, 2026). On file with Banking and Insurance Committee.

which would be subject to the random sampling as part of the five-year examination and not requiring quarterly submission to the Office would alleviate this impact.

VI. Technical Deficiencies:

Section 3 of the bill creates s. 284.52, F.S., within part III of ch. 284, relating to safety programs, to allow the Division of Risk Management of DFS, to approve or deny a claim relating to an unauthorized alien who is a minor. It is unclear whether this is intended to direct DFS to handle such claims in the same way as it generally handles such claims, or whether some alternate criteria would be used. If the latter, the section does not provide guidelines or criteria for the division to use for approving or denying such claim and does not provide specific rulemaking authority for DFS to implement this section.

Section 3 creates a s. 284.52, F.S., within part III of Ch. 284, F.S., relating to safety programs. However, part II of ch. 284, F.S., relating to state casualty claims, which includes workers' compensation, property damage, general liability, fleet automotive liability, etc., may be a more appropriate placement for this new section.

Sections 10, relating to employer liability for injuries to unauthorized aliens, provides that an employer who knowingly hires an individual who is not authorized to work in the United States under federal law is personally and fully liable for all medical and treatment costs and related expenses resulting from an accident sustained by an unauthorized alien during his or her employment. It is unclear what "related expenses" would include. Sections 440.13 and 440.15, F.S., provide medical and indemnity benefits, respectively, under the workers' compensation law.

Section 11 provides that, if the employer fails to check an employee's status through E-Verify before submitting a claim to a carrier, the employer is ineligible to receive benefits from the carrier. Employees, not employers, are eligible for benefits. The application of Section 11 is unclear and could preclude legally employed workers from receiving workers' compensation benefits if his or her employer fails to verify the injured worker's employment eligibility before submitting a claim for workers' compensation benefits.

Section 16 of the bill, relating to required records of a money transmitter, authorizes a person who has a good faith belief that a licensee failed to verify a sender's residency status as required by the bill, to file a complaint with OFR. If the complaint is deemed valid, OFR must notify the licensee of the complaint and direct the licensee to pay a monetary penalty of 25 percent of the U.S. dollar amount transferred. However, it is unclear whether this process would be consistent with chapter 120, F.S., which mandates that an agency must provide a clear point of entry (e.g. the issuance of an administrative complaint) for all persons whose substantial interests are affected, meaning the agency must issue an administrative complaint and provide the licensee an opportunity to request a hearing.

Section 16 provides that failure of a licensee to comply with subsections (1)-(4) constitutes grounds for the suspension of all licenses held by the licensee which were issued by OFR. Since a licensee is not required to comply with s. 560.2115(1) or (3)(a), F.S., this provision should reference ss. 560.2115(2), (3)(b), and (4), F.S., which require compliance.

Section 17 requires OFR rather than the Financial Services Commission (commission), to adopt rules and forms. The commission is the agency head of OFR for purposes of rulemaking pursuant to s. 20.121(3)(c), F.S.

For lines 828-837, it is unclear what license or identification card is prohibited as proposed in s. 560.310(2)(b). Existing language in s. 560.310(2)(b), F.S., provides a list of acceptable personal identification. Similarly, the bill should provide examples of prohibited license and identification cards. A reference to s. 322.033, F.S., relating to unauthorized aliens and undocumented immigrant invalid out-of-state drivers' licenses would provide greater clarity as to prohibited licenses and identification cards.

Section 18 of the bill requires the Department of Highway Safety and Motor Vehicles and OIR to adopt rules to implement this section, including standardized verification forms and procedures for interagency coordination. However, the Financial Services Commission, and not OIR, serves as the agency head of OIR for purposes of rulemaking pursuant to s. 20.121(3)(c), F.S.

VII. Related Issues:

Section 14 of the bill. Pursuant to section 560.129(2), F.S., information obtained by OFR in the course of an investigation or examination that reveals personal financial information is confidential and exempt from s.119.07(1), F.S. As the forms required in s. 560.208(7), F.S., may contain personal financial information and are provided to OFR outside the scope of an investigation or examination, it is unclear if the current public records exemption in ch. 560, F.S., would be applicable.

VIII. Statutes Affected:

This bill amends sections 125.0167, 420.5088, 420.5096, 440.02, 440.10, 448.09, 448.095, 560.208, and 560.211 of the Florida Statutes.

This bill creates sections 17.72, 284.52, 322.53, 420.56, 440.1001, 440.1002, 560.2115, 560.310, 627.7408, and 655.98 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.

By Senator Martin

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A bill to be entitled

An act relating to unauthorized aliens; creating s. 17.72, F.S.; prohibiting the Department of Financial Services from issuing a license or certification to unauthorized aliens; requiring the department to adopt rules; amending s. 125.0167, F.S.; authorizing a county to require a borrower to provide proof of being lawfully present in the United States; creating s. 284.52, F.S.; defining terms; authorizing the Division of Risk Management to approve or deny claims relating to a minor who is an unauthorized alien; prohibiting the division from approving any claim submitted by an adult who is an unauthorized alien or fails to provide lawful documentation of citizenship; amending s. 322.53, F.S.; requiring that certain procedures, instruction, and testing be conducted in English; prohibiting the use of interpreters, translators, translations, or alternate language accommodations; creating s. 420.56, F.S.; defining terms; prohibiting certain entities and corporations from providing down payment assistance to unauthorized aliens; requiring an unauthorized alien to repay such down payment assistance, if received; authorizing certain entities and corporations to initiate foreclosure proceedings under certain circumstances; amending s. 420.5088, F.S.; providing that the purpose of the Florida Homeownership Assistance Program is to assist in purchasing homes certain persons who are lawfully present in the United States; amending s. 420.5096,

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F.S.; providing that the purpose of the Florida Hometown Hero Program is to assist certain persons who are lawfully present in the United States; amending s. 440.02, F.S.; revising the definition of the term "employee"; amending s. 440.10, F.S.; conforming a provision to changes made by the act; creating s. 440.1001, F.S.; defining the term "unauthorized alien"; providing that an employer who hires or employs an unauthorized alien is personally liable for any medical and treatment costs resulting from an injury to such person; prohibiting an employer from transferring or shifting financial responsibility for such injury to others; providing administrative penalties; requiring fines collected to be deposited into the Workers' Compensation Administration Trust Fund; requiring the department to transfer reported violations to appropriate licensing authorities; creating s. 440.1002, F.S.; defining the term "E-Verify system"; requiring an employer to verify an employee's employment eligibility before submitting a workers' compensation claim; requiring employers to retain and provide to the department upon request certain documentation and verification; providing construction; authorizing the department to adopt rules; amending s. 448.09, F.S.; providing administrative and criminal penalties for an employer who knowingly employs, hires, recruits, or refers an unauthorized alien; requiring fines collected to be deposited into the State Economic Enhancement and

Development Trust Fund; providing a civil cause of action; amending s. 448.095, F.S.; authorizing the department to request certain verification of an employee's employment eligibility; amending s. 560.208, F.S.; requiring a licensee to verify a person's citizenship status before initiating a foreign remittance transfer; defining the term "foreign remittance transfer"; requiring the Financial Services Commission to adopt certain rules; requiring licensees to submit certain forms to the commission within a specified timeframe; providing an administrative penalty for a specified violation; requiring a licensee subject to such penalty to submit payment to the commission within a specified timeframe; requiring the commission to deposit penalties collected into the Regulatory Trust Fund; providing construction; amending s. 560.211, F.S.; requiring licensees to make, keep, and preserve certain documentation used to verify that a sender of a foreign remittance transfer is not an unauthorized alien; creating s. 560.2115, F.S.; defining the terms "foreign remittance transfer" and "unauthorized alien"; authorizing the Office of Financial Regulation of the commission to request records of certain documentation; authorizing a person to file a complaint with the office; requiring the office to notify a licensee upon receiving a substantiated complaint; requiring the office to conduct random quarterly audits beginning on a specified date;

providing for the suspension of licenses under certain circumstances; amending s. 560.310, F.S.; prohibiting the use of certain forms of personal identification for certain corporate payment instruments; creating s. 627.7408, F.S.; defining the terms "invalid out-of-state driver license" and "unauthorized out-of-state driver"; creating a rebuttable presumption of fault against unauthorized out-of-state drivers involved in motor vehicle accidents; providing exceptions; providing for the rebuttal of the presumption upon the showing of clear and convincing evidence; requiring law enforcement officers to note the presence of a presumption on a crash report form and notify the Department of Highway Safety and Motor Vehicles within a specified timeframe; requiring insurers to apply the presumption when processing claims; prohibiting insurers from paying or settling claims with unauthorized out-of-state drivers; requiring insurers to notify the Office of Insurance Regulation within a specified timeframe under certain circumstances; providing administrative penalties; authorizing a private cause of action under certain circumstances; providing for attorney fees and costs; requiring the Department of Highway Safety and Motor Vehicles and the Office of Insurance Regulation to adopt certain rules; providing applicability and construction; creating s. 655.98, F.S.; prohibiting a state-chartered financial institution from accepting certain forms of personal identification; requiring the Office

of Financial Regulation to adopt certain rules; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Section 17.72, Florida Statutes, is created to read:

17.72 Prohibition on licensing and certification of unauthorized aliens.—

(1) The department may not issue a license or certification to any person who is an unauthorized alien as defined in s. 908.111(1).

(2) The department shall adopt rules to establish criteria for verifying compliance with subsection (1) before issuing any license or certificate.

Section 2. Paragraph (c) of subsection (5) of section 125.0167, Florida Statutes, is amended to read:

125.0167 Discretionary surtax on documents; adoption; application of revenue.—

(5)

(c) A county may not impose any requirement as a condition to receiving any financial assistance on a borrower other than requiring proof that the borrower is lawfully present in the United States and that the borrower's income does not exceed 140 percent of the area median income. In addition to the income eligibility requirement, borrowers may only be subject to loan qualifications of lenders licensed to provide mortgage financing as to the amount of the loan. A county may not create

requirements that restrict participation by eligible borrowers.

Section 3. Section 284.52, Florida Statutes, is created to read:

284.52 Denial of claims.—

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

(a) "Adult" has the same meaning as in s. 847.001.

(b) "Minor" has the same meaning as in s. 847.001.

(c) "Unauthorized alien" has the same meaning as in s. 908.111.

(2) The Division of Risk Management may approve or deny claims relating to an unauthorized alien who is a minor; however, the division may not approve a claim submitted by an unauthorized alien who is an adult or by a person who fails to provide lawful documentation of citizenship to the division as required by state and federal law.

Section 4. Present subsection (5) of section 322.53, Florida Statutes, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

322.53 License required; exemptions.—

(5) All licensing procedures, prelicensing instruction, and licensing testing under this chapter must be conducted in English. The use of interpreters, translators, translations, or alternate language accommodations is prohibited.

Section 5. Section 420.56, Florida Statutes, is created to read:

420.56 Down payment assistance for unauthorized aliens prohibited.—

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

(a) "Down payment assistance" includes, but is not limited

to, grants to assist a person in the purchase of a residential property which take the form of a loan or a silent second mortgage.

(b) "Silent second mortgage" means a second mortgage used to secure funds for a down payment for a residential property which is not disclosed to the original mortgage lender before closing occurs.

(c) "Unauthorized alien" has the same meaning as in s. 908.111.

(2) State and local governmental entities, the corporation, and private corporations, including nonprofit organizations incorporated under chapter 617, participating in down payment assistance programs or silent second mortgage programs may not provide any form of down payment assistance to a person who is an unauthorized alien.

(3) If an unauthorized alien is discovered to have received down payment assistance from a state or local governmental entity, the corporation, or a private corporation, the unauthorized alien must immediately repay the down payment assistance to the appropriate entity or corporation. If the unauthorized alien does not repay the down payment assistance, the state or local governmental entity, the corporation, or the private corporation must initiate foreclosure proceedings under chapter 702 against the unauthorized alien.

Section 6. Section 420.5088, Florida Statutes, is amended to read:

420.5088 Florida Homeownership Assistance Program. ~~There is created~~ The Florida Homeownership Assistance Program is created for the purpose of assisting low-income and moderate-income

persons who are lawfully present in the United States in purchasing a home as their primary residence by reducing the cost of the home with below-market construction financing, by reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly payment to an affordable amount for the borrower ~~purchaser~~. Loans must ~~shall~~ be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold, refinanced, rented, or transferred, unless otherwise approved by the corporation.

(1) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

(a) The corporation may underwrite and make those mortgage loans through the program to persons or families who are lawfully present in the United States and have incomes that do not exceed 120 percent of the state or local median income, whichever is greater, adjusted for family size.

(b) Loans must ~~shall~~ be made available for the term of the first mortgage.

(c) Loans may not exceed the lesser of 35 percent of the purchase price of the home or the amount necessary to enable the borrower ~~purchaser~~ to meet credit underwriting criteria.

(2) For loans made pursuant to s. 420.507(23)(a)3.:

(a) Availability is limited to nonprofit sponsors or developers who are selected for program participation pursuant to this subsection.

(b) Preference must be given to community-based organizations as defined in s. 420.503.

(c) Priority must be given to projects that have received state assistance in funding project predevelopment costs.

(d) The benefits of making such loans must ~~shall~~ be contractually provided to the persons or families purchasing homes financed under this subsection.

(e) At least 30 percent of the units in a project financed pursuant to this subsection must be sold to persons or families who are lawfully present in the United States and who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater, adjusted for family size; and at least another 30 percent of the units in a project financed pursuant to this subsection must be sold to persons or families who are lawfully present in the United States and who have incomes that do not exceed 65 percent of the state or local median income, whichever amount is greater, adjusted for family size.

(f) The maximum loan amount may not exceed 33 percent of the total project cost.

(g) A person who is lawfully present in the United States and purchases a home in a project financed under this subsection is eligible for a loan authorized by s. 420.507(23)(a)1. or 2. in an aggregate amount not exceeding the construction loan made pursuant to this subsection. The home purchaser must meet all the requirements for loan recipients established pursuant to the applicable loan program.

(h) The corporation shall provide, by rule, for the establishment of a review committee composed of corporation staff and shall establish, by rule, a scoring system for evaluating and ranking applications submitted for construction

loans under this subsection, including, but not limited to, the following criteria:

1. The affordability of the housing proposed to be built.

2. The direct benefits of the assistance to the persons who will reside in the proposed housing.

3. The demonstrated capacity of the applicant to carry out the proposal, including the experience of the development team.

4. The economic feasibility of the proposal.

5. The extent to which the applicant demonstrates potential cost savings by combining the benefits of different governmental programs and private initiatives, including the local government contributions and local government comprehensive planning and activities that promote affordable housing.

6. The use of the least amount of program loan funds compared to overall project cost.

7. The provision of homeownership counseling.

8. The applicant's agreement to exceed the requirements of paragraph (e).

9. The commitment of first mortgage financing for the balance of the construction loan and for the permanent loans to the purchasers of the housing.

10. The applicant's ability to proceed with construction.

11. The targeting objectives of the corporation which will ensure an equitable distribution of loans between rural and urban areas.

12. The extent to which the proposal will further the purposes of this program.

(i) The corporation may reject any and all applications.

(j) The review committee established by corporation rule

pursuant to this subsection shall make recommendations to the corporation board regarding program participation under this subsection. The corporation board shall make the final ranking for participation based on the scores received in the ranking, further review of the applications, and the recommendations of the review committee. The corporation board shall approve or reject applicants for loans and shall determine the tentative loan amount available to each program participant. The final loan amount shall be determined pursuant to rule adopted under s. 420.507(23)(h).

(3) The corporation shall publish a notice of fund availability in a publication of general circulation throughout this ~~the~~ state at least 60 days before ~~prior to~~ the anticipated availability of funds.

(4) ~~There is authorized to be established by~~ The corporation may establish with a qualified public depository meeting the requirements of chapter 280 the Florida Homeownership Assistance Fund to be administered by the corporation according to the provisions of this program. Any amounts held in the Florida Homeownership Assistance Trust Fund for such purposes as of January 1, 1998, must be transferred to the corporation for deposit in the Florida Homeownership Assistance Fund, whereupon the Florida Homeownership Assistance Trust Fund must be closed. There shall be deposited in the fund moneys from the State Housing Trust Fund created by s. 420.0005, or moneys received from any other source, for the purpose of this program and all proceeds derived from the use of such moneys. In addition, all unencumbered funds, loan repayments, proceeds from the sale of any property, and any other proceeds

that would otherwise accrue pursuant to the activities of the programs described in this section shall be transferred to this fund. In addition, all loan repayments, proceeds from the sale of any property, and any other proceeds that would otherwise accrue pursuant to the activities conducted under ~~the provisions of~~ the Florida Homeownership Assistance Program shall be deposited in the fund and may ~~shall~~ not revert to the General Revenue Fund. Expenditures from the Florida Homeownership Assistance Fund are ~~shall~~ not ~~be~~ required to be included in the corporation's budget request or be subject to appropriation by the Legislature.

(5) No more than one-fifth of the funds available in the Florida Homeownership Assistance Fund may be made available to provide loan loss insurance reserve funds to facilitate homeownership for eligible persons.

Section 7. Subsections (2) and (3) of section 420.5096, Florida Statutes, are amended to read:

420.5096 Florida Hometown Hero Program.—

(2) The Florida Hometown Hero Program is created to assist Florida's hometown workforce in attaining homeownership by providing financial assistance to residents to purchase a home as their primary residence. Under the program, a borrower who is lawfully present in the United States may apply to the corporation for a loan to reduce the amount of the down payment and closing costs paid by the borrower by a minimum of $10,000 and up to 5 percent of the first mortgage loan, not exceeding $35,000. Loans must be made available at a zero percent interest rate and must be made available for the term of the first mortgage. The balance of any loan is due at closing if the

property is sold, refinanced, rented, or transferred, unless otherwise approved by the corporation.

(3) For loans made available pursuant to s. 420.507(23)(a)1. or 2., the corporation may underwrite and make those mortgage loans through the program to persons or families who are lawfully present in the United States and who have household incomes that do not exceed 150 percent of the state median income or local median income, whichever is greater. A borrower must be seeking to purchase a home as a primary residence; must be a first-time homebuyer, ~~and~~ a Florida resident, and lawfully present in the United States; and must be employed full-time by a Florida-based employer. The borrower must provide documentation of full-time employment or full-time status for self-employed individuals. The requirement to be a first-time homebuyer does not apply to a borrower who is an active duty servicemember of a branch of the armed forces or the Florida National Guard, as defined in s. 250.01, or a veteran.

Section 8. Subsection (18) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(18)(a) "Employee" means any person who receives remuneration from an employer for the performance of any work or service while engaged in any employment under any appointment or contract for hire or apprenticeship, express or implied, oral or written, ~~whether lawfully or unlawfully employed,~~ and includes~~,~~ ~~but is not limited to,~~ aliens authorized for employment under federal law and lawfully or unlawfully employed minors.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing notice of the election with the department as provided in s. 440.05.

2. As to officers of a corporation who are engaged in the construction industry, no more than three officers of a corporation or of any group of affiliated corporations may elect to be exempt from this chapter by filing a notice of the election with the department as provided in s. 440.05. Officers must be shareholders, each owning at least 10 percent of the stock of such corporation and listed as an officer of such corporation with the Division of Corporations of the Department of State, in order to elect exemptions under this chapter. For purposes of this subparagraph, the term "affiliated" means and includes one or more corporations or entities, any one of which is a corporation engaged in the construction industry, under the same or substantially the same control of a group of business entities which are connected or associated so that one entity controls or has the power to control each of the other business entities. The term "affiliated" includes, but is not limited to, the officers, directors, executives, shareholders active in management, employees, and agents of the affiliated corporation. The ownership by one business entity of a controlling interest in another business entity or a pooling of equipment or income among business entities shall be prima facie evidence that one business is affiliated with the other.

3. An officer of a corporation who elects to be exempt from this chapter by filing a notice of the election with the department as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which the officer owns.

(c) "Employee" includes:

1. A sole proprietor or a partner who is not engaged in the construction industry, devotes full time to the proprietorship or partnership, and elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05.

2. All persons who are being paid by a construction contractor as a subcontractor, unless the subcontractor has validly elected an exemption as permitted by this chapter, or has otherwise secured the payment of compensation coverage as a subcontractor, consistent with s. 440.10, for work performed by or as a subcontractor.

3. An independent contractor working or performing services in the construction industry.

4. A sole proprietor who engages in the construction industry and a partner or partnership that is engaged in the construction industry.

(d) "Employee" does not include:

1. An independent contractor who is not engaged in the construction industry.

a. In order to meet the definition of independent contractor, at least four of the following criteria must be met:

(I) The independent contractor maintains a separate

business with his or her own work facility, truck, equipment, materials, or similar accommodations;

(II) The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal regulations;

(III) The independent contractor receives compensation for services rendered or work performed and such compensation is paid to a business rather than to an individual;

(IV) The independent contractor holds one or more bank accounts in the name of the business entity for purposes of paying business expenses or other expenses related to services rendered or work performed for compensation;

(V) The independent contractor performs work or is able to perform work for any entity in addition to or besides the employer at his or her own election without the necessity of completing an employment application or process; or

(VI) The independent contractor receives compensation for work or services rendered on a competitive-bid basis or completion of a task or a set of tasks as defined by a contractual agreement, unless such contractual agreement expressly states that an employment relationship exists.

b. If four of the criteria listed in sub-subparagraph a. do not exist, an individual may still be presumed to be an independent contractor and not an employee based on full consideration of the nature of the individual situation with regard to satisfying any of the following conditions:

(I) The independent contractor performs or agrees to

perform specific services or work for a specific amount of money and controls the means of performing the services or work.

(II) The independent contractor incurs the principal expenses related to the service or work that he or she performs or agrees to perform.

(III) The independent contractor is responsible for the satisfactory completion of the work or services that he or she performs or agrees to perform.

(IV) The independent contractor receives compensation for work or services performed for a commission or on a per-job basis and not on any other basis.

(V) The independent contractor may realize a profit or suffer a loss in connection with performing work or services.

(VI) The independent contractor has continuing or recurring business liabilities or obligations.

(VII) The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

c. Notwithstanding anything to the contrary in this subparagraph, an individual claiming to be an independent contractor has the burden of proving that he or she is an independent contractor for purposes of this chapter.

2. A real estate licensee, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered

into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish motor vehicle equipment as identified in the written contract and the principal costs incidental to the performance of the contract, including, but not limited to, fuel and repairs, provided a motor carrier's advance of costs to the owner-operator when a written contract evidences the owner-operator's obligation to reimburse such advance shall be treated as the owner-operator furnishing such cost and the owner-operator is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, if such agency does not have salaried employees who receive mileage and

per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the department; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Unless otherwise prohibited by this chapter, any officer of a corporation who elects to be exempt from this chapter. Such officer is not an employee for any reason under this chapter until the notice of revocation of election filed pursuant to s. 440.05 is effective.

8. An officer of a corporation that is engaged in the construction industry who elects to be exempt from the provisions of this chapter, as otherwise permitted by this chapter. Such officer is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

11. A person who performs services as a sports official for an entity sponsoring an interscholastic sports event or for a public entity or private, nonprofit organization that sponsors an amateur sports event. For purposes of this subparagraph, such a person is an independent contractor. For purposes of this subparagraph, the term "sports official" means any person who is a neutral participant in a sports event, including, but not limited to, umpires, referees, judges, linespersons, scorekeepers, or timekeepers. This subparagraph does not apply to any person employed by a district school board who serves as a sports official as required by the employing school board or who serves as a sports official as part of his or her responsibilities during normal school hours.

12. Medicaid-enrolled clients under chapter 393 who are excluded from the definition of employment under s. 443.1216(4)(d) and served by Adult Day Training Services under the Home and Community-Based or the Family and Supported Living Medicaid Waiver program in a sheltered workshop setting licensed by the United States Department of Labor for the purpose of training and earning less than the federal hourly minimum wage.

13. Medicaid-enrolled clients under chapter 393 who are excluded from the definition of employment under s. 443.1216(4)(d) and served by Adult Day Training Services under the Family and Supported Living Medicaid Waiver program in a sheltered workshop setting licensed by the United States Department of Labor for the purpose of training and earning less than the federal hourly minimum wage.

14. An unauthorized alien as defined in s. 908.111.

Section 9. Subsection (2) of section 440.10, Florida

Statutes, is amended to read:

440.10 Liability for compensation.—

(2) Compensation shall be payable irrespective of fault as a cause for the injury, except as provided in ss. 440.09(3) and 440.1001 ~~s. 440.09(3)~~.

Section 10. Section 440.1001, Florida Statutes, is created to read:

440.1001 Employer liability for injuries to unauthorized aliens.—

(1) As used in this section, the term "unauthorized alien" has the same meaning as in s. 908.111.

(2) An employer who knowingly hires or employs an individual who is not authorized to work in the United States under federal law is personally and fully liable for all medical and treatment costs and related expenses resulting from an injury sustained by the unauthorized alien during his or her employment.

(3) An employer may not transfer or otherwise shift financial responsibility for medical and treatment costs and related expenses resulting from an injury to any third party, including an insurance company, a state agency, or any other entity.

(4) An employer who violates this section is subject to the following penalties:

(a) A fine not to exceed $50,000 per violation. Fines collected under this paragraph must be deposited into the Workers' Compensation Administration Trust Fund.

(b) Reimbursement of any public funds expended to provide medical care to the unauthorized alien.

(c) Revocation of the employer's business license, registration, or certification issued by the appropriate licensing authority.

(5) The department shall transfer reported violations of this section to the appropriate licensing authority for enforcement.

Section 11. Section 440.1002, Florida Statutes, is created to read:

440.1002 Employment eligibility for purposes of workers' compensation eligibility.—

(1) As used in this section, the term "E-Verify system" has the same meaning as in s. 448.095(1).

(2) Before an employer may submit a claim for workers' compensation benefits for an employee, the employer must first verify the employee's employment eligibility through the E-Verify system.

(3) If an employer fails to check an employee's employment eligibility through the E-Verify system before submitting a claim for workers' compensation benefits, the employer is:

(a) Ineligible to receive indemnity or medical coverage from the employer's workers' compensation insurance provider for injuries sustained by that employee.

(b) Personally liable for all costs, expenses, and benefits that would have otherwise been covered under this chapter.

(4) An employer shall retain a copy of the documentation provided and any verification generated, if applicable, by the E-Verify system for each employee. The employer must provide such documentation or verification to the department or insurer upon request.

(5) This section may not be construed to bestow any employment rights or legal status on an employee who is verified through the E-Verify system.

(6) The department may adopt rules to implement and enforce this section.

Section 12. Present subsection (5) of section 448.09, Florida Statutes, is redesignated as subsection (9), new subsections (4) through (8) are added to that section, and subsections (3) and (4) of that section are amended, to read:

448.09 Unauthorized aliens; employment prohibited.—

(3) For an employer who knowingly violates ~~a violation of~~ this section, the department shall suspend for 1 year all licenses held by the employer which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $10,000 per violation. Fines collected under this subsection must be deposited into the State Economic Enhancement and Development Trust Fund.

(4) For an employer who knowingly violates this section a second time, the department shall suspend for 5 years all licenses held by the employer which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $100,000 per violation. Fines collected under this subsection must be deposited into the State Economic Enhancement and Development Trust Fund.

(5) For an employer who knowingly violates this section a third time, the department shall permanently revoke all licenses held by the employer personally, as well as any licenses held by the entity if the employer is a corporation, which were issued by a licensing agency under chapter 120 and impose a fine not to

exceed $250,000 per violation. Fines collected under this subsection must be deposited into the State Economic Enhancement and Development Trust Fund.

(6)(a) For an employer who knowingly violates this section and the actions of an unauthorized alien employee result in injuries to another person, the department shall suspend for 5 years all licenses held by the employer which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $100,000 per violation.

(b) For an employer who knowingly violates this section and the actions of an unauthorized alien employee result in the death of another person, the department shall permanently revoke all licenses held by the employer which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $500,000 per violation.

(c) Fines collected under this subsection must be deposited into the State Economic Enhancement and Development Trust Fund.

(d) There is created a civil cause of action against an employer who violates this section if such violation results in injuries to or the death of another person.

(7) An employer who knowingly hires more than 50 unauthorized aliens commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and the department shall permanently revoke all licenses held by the employer personally, as well as any licenses held by the entity if the employer is a corporation, which were issued by a licensing agency under chapter 120.

(8) A person who is injured or the next of kin, as defined in s. 744.102, of a person who is killed by the actions of an

unauthorized alien employee may bring a cause of action under subsection (6) against the employer for damages for bodily injury or death ~~place the employer on probation for a 1-year period and require that the employer report quarterly to the department to demonstrate compliance with the requirements of subsection (1) and s. 448.095.~~

~~(4) Any violation of this section which takes place within 24 months after a previous violation constitutes grounds for the suspension or revocation of all licenses issued by a licensing agency subject to chapter 120. The department shall take the following actions for a violation involving:~~

~~(a) One to ten unauthorized aliens, suspension of all applicable licenses held by a private employer for up to 30 days by the respective agencies that issued them.~~

~~(b) Eleven to fifty unauthorized aliens, suspension of all applicable licenses held by a private employer for up to 60 days by the respective agencies that issued them.~~

~~(c) More than fifty unauthorized aliens, revocation of all applicable licenses held by a private employer by the respective agencies that issued them~~.

Section 13. Paragraph (a) of subsection (3) of section 448.095, Florida Statutes, is amended to read:

448.095 Employment eligibility.—

(3) ENFORCEMENT.—

(a) For the purpose of enforcement of this section, any of the following persons or entities may request, and an employer must provide, copies of any documentation relied upon by the employer for the verification of a new employee's employment eligibility:

1. The Department of Law Enforcement;

2. The Attorney General;

3. The state attorney in the circuit in which the new employee works;

4. The statewide prosecutor;

5. The Department of Financial Services; or

6.~~5.~~ The Department of Commerce.

Section 14. Subsection (7) is added to section 560.208, Florida Statutes, to read:

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

(7) May not initiate a foreign remittance transfer unless the licensee has verified that the sender is not an unauthorized alien as defined in s. 908.111.

(a) As used in this subsection, the term "foreign remittance transfer" means a remittance transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. s. 1693o-1, as amended, the recipient of which is located in any country other than the United States.

(b) The commission shall adopt rules relating to acceptable forms of documentation that a licensee must use to verify that the sender of a foreign remittance transfer is not an unauthorized alien. The licensee must provide confirmation of verification on forms the commission prescribes. All required forms must be submitted to the office by the 15th of the month after the close of each calendar quarter.

(c) A licensee who initiates a foreign remittance transfer in violation of this subsection shall pay a penalty equal to 25

percent of the United States dollar amount transferred, excluding any fees or charges imposed by the licensee. A licensee must remit to the office the amount of any penalty owed, along with any forms prescribed by the office, by the 15th of the month after the close of each calendar quarter. Notwithstanding ss. 252.3711 and 560.144, the office shall deposit in the Regulatory Trust Fund the penalties collected under this paragraph. Notwithstanding any other provision, the penalty imposed in this paragraph is the only remedy for a violation of this subsection and a licensee may not be subject to any other penalty.

Section 15. Present paragraphs (i) and (j) of subsection (1) of section 560.211, Florida Statutes, are redesignated as paragraphs (j) and (k), respectively, and a new paragraph (i) 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:

(i) The documentation used to verify that the sender of a foreign remittance transfer, as defined in s. 560.208(7)(a), is not an unauthorized alien, as defined in s. 908.111, and the penalties paid to the office pursuant to s. 560.208(7)(c), including the date and amount of each foreign remittance transfer and the name, date of birth, and address of each sender.

Section 16. Section 560.2115, Florida Statutes, is created to read:

560.2115 Required records audit.—

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

(a) "Foreign remittance transfer" has the same meaning as in s. 560.208(7)(a).

(b) "Unauthorized alien" has the same meaning as in s. 908.111.

(2) For enforcement purposes, the office may at any time request, and the licensee must provide, records of documentation used to verify that the sender of a foreign remittance transfer is not an unauthorized alien.

(3)(a) A person who has a good faith belief that a licensee is failing to comply with s. 560.208(7) may file a complaint with the office.

(b) Upon receipt of a valid complaint of a violation of s. 560.208(7), which is substantiated by evidence, the office must notify the licensee of the complaint and the substantiating evidence and the licensee must pay the penalty required under s. 560.208(7)(c).

(4) Beginning July 1, 2026, the office shall conduct random quarterly audits of licensees to ensure compliance with s. 560.208(7). During an audit, the licensee must produce to the office records of documentation the licensee used to verify that each sender of a foreign remittance transfer is not an unauthorized alien.

(5) Failure to comply with subsections (1)-(4) constitutes grounds for the suspension of all licenses held by the licensee which were issued by the office.

Section 17. Subsection (2) of section 560.310, Florida Statutes, is amended to read:

560.310 Records of check cashers and foreign currency exchangers.—

(2) If the payment instrument is ~~exceeds~~ $1,000 or more, the following additional information must be maintained or submitted:

(a) Customer files, as prescribed by rule, on all customers who cash corporate payment instruments that are ~~exceed~~ $1,000 or more.

(b) A copy of the personal identification that bears a photograph of the customer used as identification and presented by the customer. Acceptable personal identification is limited to a valid driver license; a state identification card issued by any state of the United States or its territories or the District of Columbia, and showing a photograph and signature; a United States Government Resident Alien Identification Card; a passport; or a United States Military identification card. The following may not be used as a form of personal identification:

1. A license or identification card issued exclusively to an unauthorized alien or undocumented immigrant.

2. A license or identification card that is substantially the same as a license or identification card issued to a United States citizen or resident or others lawfully present in the United States but which has markings establishing that the licenseholder did not present proof of his or her lawful presence in the United States.

(c) A thumbprint of the customer taken by the licensee when the payment instrument is presented for negotiation or payment.

(d) The office shall, at a minimum, require licensees to submit the following information to the check cashing database

or electronic log, before entering into each check cashing transaction for each payment instrument being cashed, in such format as required by rule:

1. Transaction date.

2. Payor name as displayed on the payment instrument.

3. Payee name as displayed on the payment instrument.

4. Conductor name, if different from the payee name.

5. Amount of the payment instrument.

6. Amount of currency provided.

7. Type of payment instrument, which may include personal, payroll, government, corporate, third-party, or another type of instrument.

8. Amount of the fee charged for cashing of the payment instrument.

9. Branch or location where the payment instrument was accepted.

10. The type of identification and identification number presented by the payee or conductor.

11. Payee's workers' compensation insurance policy number or exemption certificate number, if the payee is a business.

12. Such additional information as required by rule.

For purposes of this subsection, multiple payment instruments accepted from any one person on any given day which total $1,000 or more must be aggregated and reported in the check cashing database or on the log.

Section 18. Section 627.7408, Florida Statutes, is created to read:

627.7408 Presumption of fault in motor vehicle accidents

involving unauthorized out-of-state drivers.—

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

(a) "Invalid out-of-state driver license" means a driver license deemed invalid under s. 322.033.

(b) "Unauthorized out-of-state driver" means a person operating a vehicle who has an invalid out-of-state driver license.

(2) If an unauthorized out-of-state driver is involved in a motor vehicle accident in this state, there is a rebuttable presumption that the unauthorized-out-of-state driver is at fault for the accident for purposes of filing an insurance claim. This presumption applies regardless of the unauthorized out-of-state driver's compliance with other traffic laws at the time of the motor vehicle accident.

(3) The presumption under subsection (2) does not apply in the following circumstances:

(a) The other driver involved in the motor vehicle accident is in violation of s. 316.193(1) because he or she is found to have been operating the motor vehicle while under the influence of alcoholic beverages, any chemical substance under s. 877.111, or any controlled substance under chapter 893.

(b) The other driver involved in the motor vehicle accident is determined, by clear and convincing evidence, to be at egregious fault because of, but not limited to, reckless driving in violation of s. 316.192, leaving the scene of an accident in violation of s. 316.027, or racing on highways in violation of s. 316.191.

(4) The presumption established under subsection (2) may be rebutted by clear and convincing evidence that the unauthorized

out-of-state driver was not at fault based on factors such as witness statements, accident reconstruction, or video evidence directly related to the circumstances of the motor vehicle accident.

(5) Upon investigation of a motor vehicle accident, a law enforcement officer, as defined in s. 943.10(1), must verify whether any person involved in the motor vehicle accident is an unauthorized out-of-state driver or has an invalid out-of-state driver license in violation of s. 322.033. If a driver is determined to be in violation of s. 322.033 and he or she does not qualify for an exemption under subsection (3), the law enforcement officer must note the presumption of fault on the Florida Traffic Crash Report, Long Form or short-form crash report under s. 316.066, as applicable, and notify the Department of Highway Safety and Motor Vehicles within 48 hours after the accident.

(6) Insurers licensed under chapter 624 must apply the presumption under subsection (2) in processing claims and may not pay benefits to or settle claims with an unauthorized out-of-state driver. Insurers must report any suspected noncompliance or rebuttal attempts by the unauthorized out-of-state driver to the Office of Insurance Regulation within 30 days after the filing of an insurance claim. An insurer that fails to comply with this subsection is subject to administrative penalties under s. 624.4211.

(7) If an unauthorized out-of-state-driver's insurer is a foreign insurer as defined in s. 624.06(2) and not licensed in this state under chapter 624, any party aggrieved by the nonenforcement of this section may bring a civil action for

injunctive relief and the prevailing party is entitled to reasonable attorney fees and costs.

(8) The Department of Highway Safety and Motor Vehicles and the Office of Insurance Regulation shall adopt rules to implement this section, including standardized verification forms and procedures for interagency coordination.

(9)(a) This section applies to all insurance policies issued or renewed on or after the effective date of this act and to all motor vehicle accidents occurring on or after the effective date of this act.

(b) This section may not be construed to interfere with or limit a law enforcement officer's authority delegated under a 287(g) agreement with United States Immigration and Customs Enforcement.

Section 19. Section 655.98, Florida Statutes, is created to read:

655.98 Prohibited forms of identification for state-chartered financial institutions.—

(1) A state-chartered financial institution may not accept any of the following as a form of identification for the purpose of opening a deposit account, loan account, or safe deposit box or to receive any other services from a state-chartered financial institution:

(a) A license or identification card issued exclusively to an unauthorized alien or undocumented immigrant.

(b) A license or identification card that is substantially the same as a license or identification card issued to a United States citizen or resident or others lawfully present in the United States but which has markings establishing that the

licenseholder did not present proof of his or her lawful presence in the United States.

(2) The Office of Financial Regulation shall adopt rules to ensure compliance with, and to enforce, this section.

Section 20. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 21. This act shall take effect upon becoming a law.

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 1588
INTRODUCER:	Senator Gruters
SUBJECT:	Legal Tender
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Pre-meeting**
2.			AEG	
3.			RC	

I. Summary:

SB 1588 amends CS/HB 999 (2025) adopted in chapter 2025-100, Laws of Florida, an act relating to legal tender (the "Act"), that recognizes gold and silver as legal tender, expands regulation of financial institutions and money services businesses to regulate gold and silver legal tender, and establishes a regulatory scheme for custodians of gold and silver coin. The Act requires the Department of Financial Services (DFS) and the Office of Financial Regulation (OFR) to adopt rules to implement the Act, and repeals the Act on June 30, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

SB 1588 makes the following changes:

- Saves from repeal ch. 2025-100, Laws of Florida.
- Clarifies purity requirements for "gold coin" and "silver coin."
- Prohibits certain marks on gold or silver coin that indicate a face value, country's name, or governmental issuance.
- Authorizes certain artistic or decorative designs on the gold or silver coin.
- Limits custodial services to "transactional gold or silver" that is "intended to be capable of electronic transfer."
- Removes "custodian" from the services offered by a "money transmitter."
- Limits the money services businesses requirements relating to gold or silver coin to transmissions.
- Requires a licensee to verify insurance coverage in certain circumstances.
- Requires a money transmitter that transmits gold coin or silver coin, rather than a custodian, to be examined at least annually.
- Repeals s. 560.214, F.S., regulating custodian services, and provisions cross-referencing such section.
- Removes the OFR's obligation to conduct an examination of the custodian's vault before issuing a license.

- Removes additional licensing requirements for custodians and requires evidence as prescribed by rule for a licensee that transmits gold or silver coin.
- Removes gold and silver from services offered by a "foreign currency exchanger."

The bill has an indeterminate fiscal impact on the state revenue and expenditures. See Section V., Fiscal Impact.

The bill is effective upon becoming a law.

II. Present Situation:

Legal Tender and Specie under Federal and State Law

Article I, Section 8, Clause 5 of the U.S. Constitution grants Congress the exclusive power to coin money and regulate its value.[1] Under 31 U.S.C. § 5103, only United States coins and currency (including Federal Reserve notes) are recognized as legal tender[2] for the payment of debts, public charges, taxes, and dues.[3] Foreign gold or silver coins are not legal tender for debts under federal law.[4] Federal law also provides:

> "Whoever, except as authorized by law, makes or utters or passes, or attempts to utter or pass, any coins of gold or silver or other metal, or alloys of metals, intended for use as current money, whether in the resemblance of coins of the United States or of foreign countries, or of original design, shall be fined under [Title 18] or imprisoned not more than five years, or both."[5]

While prohibited from coining money, under Article I, Section 10, Clause 1 of the U.S. Constitution, states are expressly authorized to "make gold and silver coin a tender in payment of debts."[6] This provision authorizes states to recognize gold and silver coin as legal tender for the payment of debts but prohibits states from creating or issuing their own currencies or recognizing other forms of money as tender.[7] The U.S. Supreme Court (Court) held that debts

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[1] U.S. Const. art. 1. s. 8. Cl. 5.
[2] The term "legal tender" means "the money (bills and coins) approved in a country for the payment of debts, the purchase of goods, and other exchanges for value." Garner, B. *Definition of Legal Tender*, Black's Law Dictionary (12th ed. 2024), LEGAL TENDER | Secondary Sources | FE | Westlaw Edge (last visited Feb. 8, 2026).
[3] 31 U.S.C. s. 5103. The Board of Governors of the Federal Reserve System explains that "[t]his statute means that all U.S. money as identified above is a valid and legal offer of payment for debts when tendered to a creditor." Board of Governors of the Federal Reserve System, *Is It Legal for a Business in the United States to Refuse Cash as a Form of Payment?*,(July 21, 2020) *available at*: The Fed - Is it legal for a business in the United States to refuse cash as a form of payment? (last visited Feb. 8, 2026). A business or person may generally refuse legal tender if they do so clearly in advance. *Id.* However, if a debt already exists and does not specify the type of legal tender that must be paid, there may be consequences for refusing to accept legal tender which include, but are not limited to, the debt may be discharged. *See Spurgeon v. Smitha*, 17 N.E. 105, 107 (1888) (holding "where the money is actually produced, and an unconditional offer is made to pay it at once to the creditor, and he refuses to accept it, and asks the debtor to retain it, the sureties are discharged.").
[4] 31 U.S.C. s. 5103.
[5] 18 U.S.C. s. 486.
[6] U.S. Const. art. 1. s. 10. Cl. 1.
[7] *Id*.

are an obligation to pay money under contract, including judgments and recognizances, but does not include taxes which are "…impost levied by authority of government on its citizens…and it is not founded on contract or agreement."[8] However, the Court also held that a state legislature has the authority to "…require the collection of taxes in kind, that is to say, by the delivery to the proper officers of a certain proportion of products, or in gold and silver bullion, or in gold and silver coin…"[9]

Tax Treatment of Specie and Bullion

Federal Taxation

At the federal level, gold and silver coins and bullion are classified as "collectibles" under 26 U.S.C. § 408(m), and gains from their sale are subject to a maximum long-term capital gains tax rate of 28 percent.[10] The Internal Revenue Code defines "collectible" to include any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or any other tangible personal property specified by the Secretary of Treasury.[11] Certain U.S.-minted gold and silver coins are explicitly exempt from being classified as "collectibles."[12]

Florida Taxation

Florida imposes a tax on the sale, use, consumption, or storage of any coin when such coin:

- Is not legal tender;
- If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or
- Is sold, exchanged, or traded at a rate based on its precious metal content.[13]

The tax rate is 6 percent of sale, use, consumption, or storage price. All of the following are exempt from this 6 percent tax:

- Coin or currency that is legal tender of the U.S.[14]
- Coins or currency of two nations which are in general circulation and are exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.[15]
- Transactions in which the taxable amount represented by the sale exceeds $500, the entire amount represented by the sale of such coins or currency is exempt from the tax.[16]

Florida Law

Last year, the Legislature passed HB 999 (2025), an act relating to legal tender, that was adopted into law in ch. 2025-100, Laws of Florida, (the "Act") which has a delayed implementation date

[8] *Lane County v. Oregon*, 74 U.S. 71, 72 (1868); *Hager v. Reclamation Dist. No. 108*, 111 U.S. 701, 706-707 (1884).
[9] *Lane County v. Oregon*, 74 U.S. at 77.
[10] Internal Revenue Service, *Topic no. 49, Capital gains and losses* (January 5, 2026), https://www.irs.gov/taxtopics/tc409 (last visited Feb. 8, 2026).
[11] 26 U.S.C. § 408(m)(2)(A)–(D).
[12] 26 U.S.C. § 408(m)(3)(A).
[13] Section 212.05(1)(j)1., F.S.
[14] Section 212.05(1)(j)2., F.S.
[15] Section 212.05(1)(j)3., F.S.
[16] Section 212.05(1)(j)4., F.S. (providing that the dealer must maintain proper documentation to identify that portion of the transaction that is exempt).

of July 1, 2026.[17] The laws recognize gold coin[18] and silver coin[19] as legal tender[20] for the payment of debts[21] and contain the following provisions:

- Gold and silver coin are defined as the solid, pure form of gold or silver in various physical forms.[22]
- The coin must comply with required, discretionary, and prohibited content.[23]
- The use of gold or silver coin for payment is optional.[24]
- Exempts gold and silver coin recognized as legal tender from sales tax.[25]
- Governmental entities may recognize such coin as legal tender for payment of taxes, charges, or dues, and may tender such coin for the payment of debts.[26]

Any governmental entity choosing to accept or tender gold and silver coin may only do so only electronically[27] and must contract with a qualified public depository that can act as a custodian of gold and silver coin.[28]

The Act also established a framework to regulate money services businesses, including custodians[29] who safekeep and store such gold and silver coin, and financial institutions that offer products and services in gold or silver.[30] The regulation of these entities include:

[17] Chapter 2025-100 s. 19, L.O.F.
[18] Section 215.986(1)(c), F.S., defines "gold coin" as a precious metal with the chemical element of atomic number 79 in solid form, in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and stamped or imprinted with its weight and purity and which solid form of chemical element atomic number 79 consists of at least 99.5 percent purity. The term does not include any goods as defined in s. 672.105(1), such as jewelry, other items of utility, such as picture frames, or collectables.
[19] Section 215.986(1)(f), F.S., defines "silver coin" as a precious metal with the chemical element of atomic number 47 in solid form, in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and is stamped or imprinted with its weight and purity and which solid form of chemical element atomic number 47 consists of at least 99.9 percent purity. The term does not mean any goods as defined in s. 672.105(1), F.S., such a jewelry, other items of utility, such as picture frames, or collectables.
[20] Section 215.986(1)(e), F.S., defines "legal tender" as a medium of exchange recognized by this state pursuant to s. 10, Art. I, of the United States Constitution as a valid and legal offer of payment for debts when tendered to a creditor that agrees to receive such medium of exchange.
[21] Section 215.986(2), F.S.
[22] Section 215.986(1)(c) and (f), F.S.
[23] Section 215.986(2)(b), F.S.
[24] Section 215.986(2)(e), F.S.
[25] Section 212.05(1)(j)2., F.S.
[26] Section 215.986(3), F.S.
[27] *Id.*
[28] Section 215.986(3)(b), F.S.
[29] Section 560.103(13), F.S., defines "custodian of gold coin or silver coin" or "custodian" as any person or entity providing secure vault facilities to one or more persons for the safekeeping and storage of gold coin or silver coin, the ownership of which is or may be transferred electronically as defined in s. 215.986(1), F.S. The term includes any person who holds gold coin or silver coin for more than 10 days. The term does not include a person who holds gold coin or silver coin for personal use as legal tender.
[30] *See* ss. 560.155, 560.214, and 655.97, F.S.

- Custodians of gold and silver coin (vault facilities) must be licensed as money transmitters[31] and meet additional requirements regarding privately insuring deposits, security, recordkeeping, maintaining separate ledger accounts, and other consumer protections.[32]
- Money services businesses that effectuate transactions involving gold or silver coin must meet additional requirements regarding privately insuring deposits, maintaining separate accounts, contracting with a licensed custodian, recordkeeping, and providing consumer disclosures.[33]
- Financial institutions are not required to accept deposits of gold and silver coin and do not incur liability for refusing to offer services related to gold and silver coin. A financial institution that does offer such services must comply with the requirements of a custodian or contract with a licensed custodian and meet additional regulatory requirements that are similar to the requirements for money services businesses.[34]

The Act requires the Department of Financial Services (DFS) and the OFR to adopt rules to implement the act.[35] The Act will be repealed on June 30, 2026, unless reviewed and saved from repeal through reenactment by the Legislature after ratification of the implementing rules adopted by the DFS and the OFR.[36]

Other States' Treatment of Specie and Bullion

Several states have adopted laws to recognize gold and silver as legal tender or to remove various tax barriers to facilitate their use in commerce. These laws vary in scope and effect, ranging from simple tax exemptions to the establishment of state-run bullion depositories.

- Alabama recently passed legislation that recognizes any refined gold or silver bullion, specie, or coin that has been stamped, marked, or imprinted with its weight or purity as legal tender.[37]
- Arkansas law defines specie, in part, as "coin having gold or silver content" and provides that specie and legal tender consists of specie coin issued by the United States Government or other specie that an Arkansas court rules to be within the state's authority to make legal tender but does not explicitly provide that gold and silver coin are legal tender.[38]
- Arizona has removed state capital gains taxes on sales of precious metals. Like Wyoming, Arizona's approach focuses on tax treatment rather than establishing state-operated depositories or payment systems.[39] For purposes of reducing gross income with any net loss

[31] Section 560.205(2), F.S., provides additional licensing requirements for custodians to include evidence of: 1. Insurance against loss for all gold coin or silver coin held in its custody; 2. Custody of the exact quantity and type of asset for all of its customers' gold coin or silver coin held in its physical custody; and 3. Depository accreditation from an entity approved by the OFR; and a statement of a business plan providing for the safe and sound operation of custodial services pertaining to the storage, security, insurance, auditing, administration, authorized access, transacting, and transfer of gold coin or silver coin.
[32] Section 560.214, F.S.
[33] Section 560.155, F.S.
[34] Section 655.97, F.S.
[35] Chapter 2025-100 s. 17, L.O.F.
[36] Chapter 2025-100 s. 18, L.O.F.
[37] AL SB 130 (2025), *available at* https://alison.legislature.state.al.us/files/pdf/SearchableInstruments/2025RS/SB130-int.pdf (last visited April 17, 2025).
[38] AR Code s. 4-56-106.
[39] Ariz. Rev. Stat. § 43-1021. *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of

from the exchange of legal tender, Arizona has defined legal tender to include specie which means coins having precious metal content.[40]

- Colorado recognizes gold and silver issued by the U.S. government as legal tender for the payment of all debts contracted on or after April 5, 1893, between citizens of the state.[41]
- Idaho recently passed legislation that provides gold and silver coin and specie minted domestically are legal tender.[42]
- Louisiana recently declared gold or silver coin, specie, or bullion issued by any state or the United States government as legal tender.[43]
- Missouri codified the "Constitutional Money Act" that requires electronic specie currency to be accepted as legal tender for the payment of all public debts and authorizes specie legal tender and electronic specie currency to be accepted as payment for all private debts.[44]
- Oklahoma law provides that gold and silver coin issued by the United State government are legal tender.[45]
- Texas has established a state-operated bullion depository, known as the Texas Bullion Depository, to securely store precious metals for individuals, businesses, and governmental entities. The depository provides secure storage and the ability for account holders to deposit and withdraw physical bullion. Texas recently adopted legislation to recognize gold and silver as legal tender for payment of debts but the laws are effective in phases during 2026 and 2027.[46]
- Utah was the first state to recognize U.S.-minted gold and silver coins as legal tender through its Legal Tender Act of 2011. Utah law also provides a tax exemption for capital gains derived from the sale or exchange of gold and silver coins that are recognized as legal tender. In addition, Utah permits private firms to operate accounts backed by physical, precious metals, which allows individuals to conduct transactions denominated in gold and silver.[47] Utah recently legislation that authorizes the state treasurer to issue a competitive procurement for a precious metals-backed electronic payment platform that would allow state vendors to elect to be paid in gold and silver.[48]

Financial Services by Guidehouse Inc., p. 102 (February 28, 2025) (on file with the Senate Committee on Banking and Insurance).

[40] AZ Rev. Stat. s. 43.1021.

[41] CO Rev. Stat. s. 11-61-101.

[42] Idaho HB 177 (2025), *available at* https://legislature.idaho.gov/sessioninfo/2025/legislation/h0177/ (last visited April 17, 2025).

[43] LA Rev. Stat. s. 6:341.

[44] MO Rev. Stat. s. 408.010 (providing that "electronic specie currency" is a representation of actual gold and silver, specie, and bullion held in an account, which may be transferred by electronic instruction. Such representation shall reflect the exact unit of physical specie or gold and silver bullion in the account in its fractional troy ounce measurement as provided in this section).

[45] 62 OK Stat. s. 4500.

[46] Tex. Gov't Code § 2116; S.B. 483 (2015); H.B. 1056 (2025). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 116 (February 28, 2025) (on file with the Senate Committee on Banking and Insurance).

[47] Utah Code §§ 59-1-1501 et seq.; H.B. 317 (2011). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 122 (February 28, 2025) (on file with the Senate Committee on Banking and Insurance).

[48] Utah HB 306 (2025), *available at* https://le.utah.gov/~2025/bills/static/HB0306.html (last visited April 17, 2025).

- Wyoming enacted legislation in 2018 declaring gold and silver legal tender and exempting the sale of these metals from state sales and use taxes. Wyoming law also prohibits the treatment of specie as taxable tangible personal property, effectively removing several barriers to the private holding and use of gold and silver for commerce.[49]

Other states, such as Kansas and Indiana, have adopted various forms of tax exemptions related to the sale or exchange of gold and silver bullion, though these laws do not necessarily recognize precious metals as legal tender or create infrastructure to support their use as a medium of exchange.[50] Some states have legislation pending that would recognize gold and silver as legal tender, such as Tennessee,[51] South Carolina,[52] and West Virginia.[53]

While these states have taken steps to encourage the use of gold and silver by removing tax barriers and recognizing their status as lawful money in specific contexts, no state currently operates a fully integrated, government-supported electronic payment system backed by physical precious metals that are recognized for payment of all state taxes, fees, or other obligations. Most existing laws focus on facilitating private holding and exchange of gold and silver, and on removing disincentives such as sales and capital gains taxes, rather than creating comprehensive alternative currency systems.[54]

Chief Financial Officer

Florida law provides that the Chief Financial Officer (CFO) must serve as the state's chief fiscal officer and, amongst other things, is responsible for keeping all state funds.[55] The CFO is tasked with examining, auditing, adjusting, and settling all accounts of any person who may receive moneys of, or owes money to, the state.[56] Florida Statutes grant the CFO several powers to carry out these duties, such as the discretion on how to invest state funds within certain limitations,[57] authority to determine the frequency of certain state employee salary payments,[58] and requirement to report disbursements made.[59]

Qualified Public Depositories

Unless a specific exemption applies, state and local governments must deposit public funds in a bank or savings association that has been designated as a qualified public depository (QPD)

[49] Wyo. Stat. §§ 34-29-101 to 34-29-103; SF111 (2018). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 128 (February 28, 2025) (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as "2025 Bullion Feasibility Study").
[50] *Id.*
[51] TN SB 1813 (2025-2026).
[52] SC H 5115 (2025-2026).
[53] WV SB 413 (2026).
[54] 2025 Bullion Feasibility Study at 14, 20, 22-23.
[55] Fla. Const. art. IV s. 4(c); Section 17.001, F.S.
[56] Section 17.04, F.S.
[57] *See* s. 17.57, F.S.; s. 17.61, F.S.
[58] Section 17.28, F.S.
[59] Section 17.11, F.S.

under the Florida Security for Public Deposits Act.[60] As of December 2025, Florida had 128 authorized QPDs.[61]

To be designated as a QPD by the CFO, a bank, credit union, savings bank, or savings association must:

- Have authority to accept deposits because it has been chartered and regulated by the state or federal government;
- Have its principal place of business in Florida, or a branch office in Florida;
- Have deposit insurance pursuant to the Federal Deposit Insurance Act[62] or the National Credit Union Share Insurance Fund;
- Have procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits;
- Meet all the requirements of ch. 280, F.S., relating to security for public deposits; and
- Refrain from engaging in the unsafe and unsound practice of discriminating against a person in providing services.[63]

QPDs must secure public deposits with a pledge of eligible collateral, to protect the deposit against losses that could occur in the event of insolvency or default.[64] The amount of collateral that is required is based on statutory guidelines and the QPD's overall financial condition.[65]

Public deposits include, but are not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposits; they do not include moneys in deposit notes, securities, mutual funds, and similar investments.[66]

A bank or savings association must guarantee public depositors against losses caused by the default or insolvency of other QPDs.[67] Any shortfall that is not covered by the maximum federal deposit insurance of $250,000, the CFO must demand payment under letters of credit or the sale of pledged or deposited collateral by the defaulting depository. The CFO may assess QPDs for the total loss if the demand for payment or sale cannot be accomplished within 7 days.[68]

[60] Sections 280.01 and 280.03(1)(b), F.S. Certain public deposits, including those that are fully collateralized under other laws and moneys contributions to the state retirement system that are held in the System Trust Fund, are exempt pursuant to s. 280.03(3), F.S.
[61] Florida Department of Financial Services, Division of the Treasury, *Currently Designated Qualified Public Depositories*, (Dec. 2025), Public Deposits - Smartsheet.com (last visited Feb. 8, 2026).
[62] 12 U.S.C. ss. 1811 et. seq.
[63] Section 280.02(26), F.S.
[64] Sections 280.04 and 280.041(6), F.S.
[65] Section 280.04, F.S., and Rule 69C-2.024, F.A.C.
[66] Section 280.02(23), F.S.
[67] Section 280.07, F.S.
[68] Section 280.08, F.S.

Financial Institutions

Dual Oversight of Depository Institutions

An institution must have a federal or state charter to accept deposits. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency within the U.S. Department of the Treasury or as state banks by a state regulator.[69]

The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, credit unions and related entities.[70] The Office of Financial Regulation (OFR) licenses and regulates 196 financial entities, including 57 state-chartered banks.[71] There are at least 25 federally chartered banks operating in Florida.[72]

Due to federal preemptions, a state's regulatory powers in relation to federally chartered institutions is limited. However, the state may exercise powers within their exceptions to exclusive federal visitorial authority. Such exceptions are those recognized by federal law and courts of law or created by the U.S. Congress.[73]

Once a financial institution obtains a charter, one of the regulator's primary tasks is to ensure solvency, which is achieved by conducting financial exams of its licensed entities. Financial institutions also need approval from their regulator to make changes in their upper management, merge with another company, pay dividends to shareholders, engage in material transactions with subsidiaries and affiliates, or make significant changes to their business operations.[74]

Banks chartered by the OFR must become ~~a~~ member of the Federal Reserve or obtain insurance from the Federal Deposit Insurance Corporation.[75] Credit Unions chartered by the OFR must insure their accounts by becoming a member of the National Credit Union Administration.[76] Thus, state-chartered banks and credit unions are subject to a dual-regulatory system.

The OFR must examine the condition of each state-chartered financial institution at least every 18 months, and may conduct more frequent examinations as needed, based on risks associated with a licensee, such as prior examination results or significant operational changes.[77] When a state-chartered financial institution also has a federal regulator, the OFR may accept an

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[69] Congressional Research Service, *Introduction to Financial Services: Banking*, p. 1 (April 1, 2025) https://crsreports.congress.gov/product/pdf/IF/IF10035 (last visited Feb. 8, 2026).
[70] Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes: Ch. 655, financial institutions generally; Ch. 657, credit unions; Ch. 658, banks and trust companies; Ch. 660, trust business; Ch. 662, family trust companies; Ch. 663, international banking; Ch. 665, relating to associations; and Ch. 667, savings banks.
[71] The OFR, *Fast Facts* (2025 ed.), https://flofr.gov/docs/default-source/documents/fast-facts.pdf (last visited Feb. 8, 2026) (hereinafter cited as "2025 OFR Fast Facts").
[72] The Office of the Comptroller of Currency, U.S. Department of Treasury, *National Banks Active As of 1/31/2026*, https://www.occ.gov/topics/charters-and-licensing/financial-institution-lists/national-by-name.pdf (Feb. 8, 2026).
[73] 12 C.F.R. § 7.4000 (2011).
[74] For a detailed discussion of the regulatory framework, *see* Congressional Research Service, *Who Regulates Whom? An Overview of the U.S. Financial Regulatory Framework* (October 13, 2023), https://www.congress.gov/crs-product/R44918 (last visited Feb. 8, 2026). *See also* ss. 655.037, 655.0385, 655.0386, 655.03855, and 655.412, F.S.
[75] Sections 658.22 and 658.38, F.S.
[76] Sections 657.005, 657.008, and 657.033, F.S.
[77] Section 655.045(1), F.S.

examination performed by the federal regulator or the regulators may conduct a joint examination.[78]

Financial institutions that become insolvent are liquidated by their primary regulator.[79] Financial institutions must also comply with the Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act (Act).[80] Such Act requires, amongst other things, for a financial institution to designate and retain a Bank Secrecy Act and Anti-Money Laundering (BSA/AML) compliance officer[81,82] and keep a record of certain financial transactions which involves monetary instruments greater than $10,000 which the financial institution believes is suspicious activity.[83] "Monetary instrument" is defined as:

> "Coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, stored value cards, prepaid cards, investment securities or negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery, or similar devices."[84]

Authority of the OFR

The OFR may impose administrative sanctions on financial institutions subject to the Florida Financial Institutions Codes, such as engaging in an "unsafe or unsound practice."[85] Possible penalties include: issuance of a cease and desist order,[86] removal of an institution-affiliated party,[87] administrative fines,[88] and a court-ordered injunction to restrain conduct that violates a formal enforcement action.[89] When imposing a sanction or requiring a remedy, the OFR must consider "the appropriateness of the penalty with respect to the size of the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require."[90]

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[78] Section 655.045(1)(a), F.S.
[79] Sections 657.063, 657.064, 658.83, and 660.48, F.S.
[80] Section 655.50, F.S.
[81] Section 655.50(3)(a), F.S., defines "BSA/AML compliance officer" as the financial institution's officer responsible for the development and implementation of the financial institution's policies and procedures for complying with the requirements of this section relating to anti-money laundering (AML), and the requirements of the Bank Secrecy Act of 1970 (BSA), Pub. L. No. 91-508, as amended; the USA Patriot Act of 2001, Pub. L. No. 107-56, as amended, and federal state rules and regulations adopted thereunder; and 31 C.F.R. parts 500-598, relating to the regulations of the Office of Foreign Assets Control (OFAC) of the United States Department of Treasury.
[82] Section 655.50(4), F.S.
[83] Section 655.50(5), F.S.
[84] Section 655.50(3)(e), F.S.
[85] Section 655.005(1)(y), F.S., defines "unsafe or unsound practice" means any practice or conduct found by the office to be contrary to generally accepted standards applicable to a financial institution, or a violation of any prior agreement in writing or order of a state or federal regulatory agency, which practice, conduct, or violation creates the likelihood of loss, insolvency, or dissipation of assets or otherwise prejudices the interest of the financial institution or its depositors or members. In making this determination, the office must consider the size and condition of the financial institution, the gravity of the violation, and the prior conduct of the person or institution involved.
[86] Section 655.033, F.S.
[87] Section 655.037, F.S.
[88] Section 655.041, F.S.
[89] Section 655.034, F.S.
[90] Section 655.031(1), F.S.

The OFR may impose monetary fines if a licensee violates a provision of the financial institutions codes or associated rules, an order of the office, or a written agreement with the office.[91] In general, administrative fines may not exceed $2,500 per day for each violation.[92] Larger fines are allowed in certain circumstances.[93] Criminal violations – like embezzlement and fraud – may be prosecuted under the penal code.[94]

The OFR has authority to monitor state-chartered banks, to ensure compliance with state and federal laws, and may enforce state consumer protection laws on federally chartered banks operating within their boundaries so long as the state law is not pre-empted by federal law.[95] Federal pre-emption permits federally chartered banks and savings associations to operate under a uniform set of rules when they operate across state lines.[96]

Money Services Businesses

The OFR also has regulatory authority over money services businesses[97] (MSBs) that assist consumers in transacting instruments,[98] transmitting money,[99] cashing checks,[100] and exchanging foreign currency.[101] Examples include check cashers like The Check Cashing Store,[102] money transmitters like PayPal,[103] and exchangers like Florida Currency Exchange.[104] Money services businesses also include "payday lenders" who offer short-term, high-interest loans that are due on the consumer's next pay day.

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[91] Section 655.041, F.S.
[92] Section 655.041(2), F.S.
[93] *See* Section 655.041(2), F.S.
[94] Section 655.0322, F.S.
[95] 12 U.S.C. 25b.
[96] U.S. Department of the Treasury, Office of the Comptroller of the Currency (OCC), *OCC Chief Counsel's Interpretation: 12 U.S.S. § 25b* (Dec. 18, 2020), https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-176a.pdf (last visited Feb. 8, 2026).
[97] Section 560.103(22), F.S., defines "money services businesses" as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.
[98] Section 560.103(29), F.S., defines "payment instrument" as a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument used for the transmission, exchange, or payment of currency or monetary value, regardless of whether it is 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.
[99] Section 560.105, F.S. Section 560.103(23), F.S., defines "money transmitter" as a corporation, limited liability corporation, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, a payment instrument, or virtual currency 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 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.
[100] Section 560.103(6), F.S., defines "check casher" as a person who sells currency in exchange for payment instruments received, except travelers checks.
[101] Section 560.103(17), F.S., defines "foreign currency exchanger" as a person who exchanges, for compensation, currency of the United States or a foreign government to currency of another government.
[102] The Check Cashing Store, *Home*, https://www.thecheckcashingstore.com/home (last visited Feb. 8, 2026).
[103] PayPal, *Home*, https://www.paypal.com/us/digital-wallet (last visited Feb. 8, 2026).
[104] Florida and Texas Currency Exchange, *Home*, https://flcurrencyexchange.com/ (last visited Feb. 8, 2026).

Licensing of Money Services Businesses

MSBs are regulated under two license categories created pursuant to ch. 560, F.S. The first category, money transmitters and persons selling or issuing payment instruments, is regulated under part II of ch. 560, F.S. The second category, check cashers and foreign currency exchangers, is regulated under part III of ch. 560, F.S.

To be licensed under ch. 560, F.S., a money services business applicant must:

- Demonstrate to the OFR the character and general fitness necessary to command the confidence of the public and warrant the belief that the MSB or deferred presentment provider shall be operated lawfully and fairly;
- Be legally authorized to do business in Florida;
- Be registered as a MSB with the Financial Crimes Enforcement Network, if applicable;[105]
- Have an anti-money laundering program in compliance with federal law;[106] and
- Provide the OFR with all the information required under ch. 560, F.S., and related rules.[107]

To apply as a money services business a person must submit:

- An application to the OFR for an MSB license that must include, on a form prescribed by rule, specified information and documents, such as:
  - The legal name and address of the applicant;
  - The date of the applicant's formation and the state where the applicant was formed;
  - The name, specified identification number, business and residence addresses, and employment history for the past five years for each control person;
  - A description of the organizational structure of the applicant;
  - A description of the money services business activities the applicant proposes to conduct;
  - The location at which the applicant proposes to establish its principal place of business and any other location.[108]
- A nonrefundable application fee.[109,110]
- Fingerprints for live-scan processing in accordance with rules adopted by the Financial Services Commission (Commission), for each control person.[111]
- A copy of the applicant's written anti-money laundering program.[112,113]
- Within the time allotted by rule, any information needed to resolve any deficiencies found in the application.[114]

Licenses issued to MSBs cannot be for more than two years,[115] after which, the money services business must reapply for licensure. Once licensed, an MSB is required to report any change in

[105] *See* 31 C.F.R. s. 1022.380.
[106] *See* 31 C.F.R. s. 1022.210.
[107] Section 560.1401, F.S.
[108] Section 560.141(1)(a), F.S.
[109] Section 560.143, F.S.
[110] Section 560.141(1)(b), F.S.
[111] Section 560.141(1)(c), F.S.
[112] Supra note 68.
[113] Section 560.141(1)(d), F.S.
[114] Section 560.141(1)(e), F.S.
[115] Section 560.141(2), F.S.

control persons.[116] A change of control application must be accompanied by the payment of an initial licensing fee[117] and a fee per branch or authorized vendor,[118] up to a maximum of $20,000.[119]

Administrative sanctions for money services businesses may include issuance of a Cease and Desist Order, removal of an Institution-Affiliated Party, suspension or revocation of a license, an injunction, or a fine of at least $1,000 but not more than $10,000 for each violation.[120] Money laundering may be prosecuted under state or federal law.[121]

Money Transmitters

A person is prohibited from engaging in money transmitter activity for compensation without first obtaining a license.[122] Money transmitters are subject to additional licensing requirements, if applicable, including:

- A sample authorized vendor[123] contract.[124]
- Documents demonstrating that the net worth and bonding requirements have been fulfilled.
- A copy of the applicant's financial audit for the most recent fiscal year.[125]

A licensed money transmitter is authorized to conduct its business at one or more locations within Florida through branches or by means of authorized vendors, and may charge a different price for a money transmitter service based on the mode of transmission provided a customer is not charged more for service that is paid by credit card. A money transmitter is required to:

- Place assets that are a customer's property in a segregated account in a federally insured financial institution and maintain separate accounts for operating capital and the clearing of customer funds.
- Ensure currency or monetary value is available to the recipient within 10 business days after receipt.
- Provide a confirmation or sequence number to the customer upon receipt of currency or monetary value. [126]

Licensed money transmitters are required to have a net worth of at least $100,000 or more if the licensee operates more than one location. Such licensee must obtain an annual financial audit report that has to be submitted to the OFR within a specified time. Obtaining a license is

[116] Section 560.126(3), F.S.
[117] Fees are determined by whether the MSB is licensed under Part II or Part III of Chapter 560. Initial licensing fees under Part II licenses require a $375 license application fee per s. 560.143(1)(a), F.S. Part III licenses require a $188 license application fee per s. 560.143(b), F.S.
[118] Section 560.143(1)(c) and (d), F.S., provides that both the per branch fee and the authorized vendor fee are $38.
[119] Section 560.143(1)(g), F.S.
[120] Sections 560.114 and 560.113, F.S.
[121] Sections 560.111 and 560.123, F.S
[122] Section 560.204, F.S.
[123] Section 560.103(3), F.S., defines "authorized vendor" as a person designated by a money services business licensed under part II of ch. 560, F.S., to act on behalf of the licensee at locations in Florida pursuant to a written contract with the licensee.
[124] Section 560.203, F.S. (providing any authorized vendors of a licensee acting within the scope of authority conferred by the licensee are exempt from licensure but remain subject to the provisions of ch. 560, F.S.).
[125] Section 560.205, F.S.
[126] Section 560.208, F.S.

contingent on the applicant providing proof to the OFR of a corporate surety bond that may not be less than $50,000 or exceed $2 million.[127] A licensed money transmitter must possess permissible investments 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.[128] Money transmitters must also comply with record retention requirements.[129]

The OFR reports that there was a total of 314 money transmitters licensed by the OFR as of January 2026.[130]

III. Effect of Proposed Changes:

SB 1588 modifies ch. 2025-100, Laws of Florida, that was adopted during the 2025 Regular Session to recognize gold and silver as legal tender.

Section 1 saves ch. 2025-100, Laws of Florida, from repeal by repealing the sunset clause that expires on June 30, 2026, unless the act is reenacted.

Section 2 modifies the definitions of "gold coin" and "silver coin" to clarify that the purity requirement applies to the entire coin or item as a single unit and not to any isolated component or embedded portion of the gold or silver. The term does not include items that incorporate gold or silver within nonmetal substrates, such as polymer, plastic, paper, or other composite materials, regardless of the gold or silver component.

The bill restricts any marks indicating the face value of a coin in the official currency of any government, a country's name on the coin, or phrases implying governmental issuance or that the coin was minted by a government mint.

The bill authorizes artistic or decorative designs, such as images of animals, historical figures, or patterns, to be marked on the coin if they are integral to the coin's surface and do not imply governmental issuance, provided the coin otherwise meets the requirements for legal tender.

Section 3 modifies the definition of "custodian of gold coin or silver coin" to apply only to transactional gold or silver that is "intended to be capable of electronic transfer." The term "transactional gold and silver" is defined as gold or silver held by a third party which is intended to be used, transferred, or exchanged as legal tender in a commercial or financial transaction through electronic or digital means. The term does not include an individual or entity that holds gold or silver that is not intended to be used as legal tender.

The bill removes "gold coin" and "silver coin" from services offered by a "foreign currency exchanger." The bill also removes a "custodian of gold coin or silver coin" from the types of

[127] Section 560.209, F.S.
[128] Section 560.210(1), F.S. (providing permissible investments include, for instance, cash, certificates of deposit, or shares in a money market mutual fund).
[129] Section 560.211, F.S.
[130] The OFR, *2026 Agency Legislative Bill Analysis Florida Office of Financial Regulation for SB 1588*, 2, Feb. 5, 2026 (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as "2026 OFR Agency Analysis for SB 1588").

services offered by a money services business. This removes the OFR's direct regulatory authority of custodians that safekeep and store gold and silver coin.

Section 4 modifies the requirement that OFR must examine a custodian at least annually to instead require OFR to annually examine a money services business that transmits gold or silver coin.

Section 5 removes the requirement that OFR must conduct an examination of a proposed custodian's vault before issuing a license to determine the applicant's ability to conduct business immediately upon opening for business.

Section 6 limits the money services business requirements for offering products or services in gold or silver coin to apply only to transmission of such coin, and removes storing, exchanging, or accepting payment as types of services that require compliance with the requirements.[131]

The bill requires a licensee that relies on a custodian's insurance to independently verify the insurance coverage is current and active.

Section 7 removes the additional license application requirements for custodians, and requires evidence, as prescribed by rule, of an applicant's compliance with certain money services business requirements for transmission of gold or silver coin[132] if the applicant intends to offer such services.

Section 8 repeals section 560.214, F.S., relating to custodian requirements that were adopted in ch. 2025-100, L.O.F.[133] This eliminates statutory standards adopted to protect consumers assets that are held by custodians in vault facilities. The deleted standards are related to security against theft, accurate recordkeeping and accounting, safeguards against misappropriation of deposits, disclosures and quarterly statements to consumers, and returning gold to its owners upon request.

Sections 9, 10, and 11 conform to changes made because s. 560.214, F.S., is repealed in section 8 of the bill.

Section 12 provides the bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[131] Supra note 109.
[132] Supra note 107.
[133] Supra note 108.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

While the U.S. Constitution authorizes states to make gold and silver coin legal tender for a payment of debt, gold coin or silver coin are not defined. The definitions established in the bill for these terms are broad and a federal court may interpret the meaning of these terms, and therefore the scope of a state's authority to make such coin legal tender, to be narrower than provided in the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact on the state revenue expenditures.

VI. Technical Deficiencies:

The OFR reports that the agency is unsure how to determine whether any of the following conditions in the definition of "custodian of gold coin or silver coin" have been met:

- Ownership of gold coin and/or silver coin is/is not intended to be capable of electronic transfer for legal tender as defined in s. 215.986(1), F.S. (Lines 96-99).
- A person or entity holding gold coin and/or silver coin is/is not intending to use the gold coin and/or silver coin as legal tender. (Lines 101-104).
- The gold or silver held by a third party is/is not intended to be used, transferred, or exchanged as legal tender in a commercial or financial transaction through electronic or digital media. (Lines 104-108).[134]

VII. Related Issues:

None.

[134] 2026 OFR Agency Analysis for SB 1588 at 5.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 215.986, 560.103, 560.109, 560.141, 560.155, 560.205, 560.214, 280.21, 559.952, 655.97

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Gruters

22-01292A-26 20261588__

A bill to be entitled

An act relating to legal tender; repealing s. 18 of chapter 2025-100, Laws of Florida; amending s. 215.986, F.S.; revising the definitions of the terms "gold coin" and "silver coin"; revising requirements for gold coin and silver coin recognized as legal tender; amending s. 560.103, F.S.; revising definitions; defining the term "transactional gold or silver"; amending s. 560.109, F.S.; specifying that money services businesses that transmit gold coin or silver coin, rather than custodians of gold coin or silver coin, must be examined at specified intervals; amending s. 560.141, F.S.; deleting a provision regarding examination of certain applicants; amending s. 560.155, F.S.; revising prohibitions relating to money services businesses; revising the requirements for money services businesses that transmit gold coin or silver coin; amending s. 560.205, F.S.; revising license application requirements for certain applicants; repealing s. 560.214, F.S., relating to custodians of gold coin or silver coin; amending ss. 280.21, 559.952, and 655.97, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 18 of chapter 2025-100, Laws of Florida, is repealed.

22-01292A-26 20261588__

Section 2. Paragraphs (c) and (f) of subsection (1) and paragraph (a) of subsection (2) of section 215.986, Florida Statues, are amended to read:

215.986 Gold and silver coin as legal tender.—

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

(c) "Gold coin" means a precious metal with the chemical element of atomic number 79 in solid form, in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and stamped or imprinted with its weight and purity and which solid form of chemical element atomic number 79 consists of at least 99.5 percent purity. The purity requirement applies to the entire coin or item as a single unit and not to any isolated component or embedded portion of the gold. The term does not include items that incorporate gold within nonmetal substrates, including, but not limited to, polymer, plastic, paper, or other composite materials, regardless of the purity of the gold component. The term also does not include any goods as defined in s. 672.105(1), such as jewelry; other items of utility, such as picture frames; or collectibles.

(f) "Silver coin" means a precious metal with the chemical element of atomic number 47 in solid form, in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and is stamped or imprinted with its weight and purity and which solid form of chemical element atomic number 47 consists of at least 99.9 percent purity. The purity requirement applies to the entire coin or item as a single unit and not to any isolated component or embedded portion of the silver. The term does not include items that incorporate silver within nonmetal substrates, including, but not limited to, polymer,

plastic, paper, or other composite materials, regardless of the purity of the silver component. The term also does not mean any goods as defined in s. 672.105(1), such as jewelry; other items of utility, such as picture frames; or collectibles.

(2) LEGAL TENDER.—Gold coin and silver coin that meet the requirements of this section are recognized as legal tender by this state for the payment of debts incurred on or after July 1, 2026.

(a) Gold coin or silver coin recognized as legal tender in this section may not be imprinted, stamped, or otherwise marked with any name, symbol, or other information or design, indicating the face value of the coin in the official currency of any government, or with a country's name on the coin or phrases implying governmental issuance or that the coin was minted by a government mint. ~~including, but not limited to, any suggestion that such coin has been minted or issued by any government,~~ Except as prohibited in this paragraph, the ~~that such~~ coin must be imprinted, stamped, or otherwise marked with the coin's weight and purity and may be imprinted, stamped, or otherwise marked with the name or symbol that identifies any refiner or mint of the gold coin or silver coin. Additional artistic or decorative designs, such as images of animals, historical figures, or patterns, are permitted if they are integral to the coin's surface and do not imply governmental issuance as provided in this paragraph, and if the coin otherwise meets the purity and form requirements in subsection (1). A gold coin or silver coin that does not meet the requirements of this paragraph is not recognized as legal tender for the payment of debts in this state.

Section 3. Subsections (13), (19), and (26) of section 560.103, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, are amended to read:

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

(13) "Custodian of gold coin or silver coin" or "custodian," as used for purposes of transactional gold or silver, means any person or entity providing secure vault facilities to one or more persons for the safekeeping and storage of gold coin or silver coin, the ownership of which is intended to be capable of electronic transfer ~~or may be transferred electronically~~ as defined in s. 215.986(1) for legal tender as defined in s. 215.986(1). The term includes any person who holds gold coin or silver coin for more than 10 days. The term does not include a person who holds gold coin or silver coin for personal use as legal tender or an individual or entity that holds gold or silver that is not intended to be used as legal tender. For purposes of this subsection, the term "transactional gold or silver" means gold or silver held by a third party which is intended to be used, transferred, or exchanged as legal tender in a commercial or financial transaction through electronic or digital means.

(19) "Foreign currency exchanger" means a person who exchanges, for compensation, currency of the United States or a foreign government~~, gold coin, or silver coin~~ to currency of another government.

(26) "Money transmitter" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which~~:~~

~~(a)~~ receives currency, monetary value, a payment

instrument, gold coin, silver coin, or virtual currency for the purpose of acting as an intermediary to transmit currency, monetary value, a payment instrument, gold coin, silver coin, or virtual currency from one person to another location or person 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. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction~~; or~~

~~(b) Acts as a custodian of gold coin or silver coin~~.

Section 4. Subsection (1) of section 560.109, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, is amended to read:

560.109 Examinations and investigations.—The office may conduct examinations and investigations, within or outside this state to determine whether a person has violated any provision of this chapter and related rules, or of any practice or conduct that creates the likelihood of material loss, insolvency, or dissipation of the assets of a money services business or otherwise materially prejudices the interests of their customers.

(1) The office may, without advance notice, examine or investigate each licensee as often as is warranted for the protection of customers and in the public interest. However, the office must examine each licensee at least once every 5 years, except that a money services business that transmits ~~custodian of~~ gold coin or silver coin must be examined at least annually. The office may, without advance notice, examine or investigate a

money services business, authorized vendor, affiliated party, or license applicant at any time if the office suspects that the money services business, authorized vendor, affiliated party, or license applicant has violated or is about to violate any provision of this chapter or any criminal law of this state or of the United States.

Section 5. Subsection (3) of section 560.141, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, is amended to read:

560.141 License application.—

~~(3) The office shall conduct an examination of the applicant, including, but not limited to, the custodian's vault facilities, before issuing a license to determine the applicant's ability to conduct business immediately upon opening for business.~~

Section 6. Subsection (1) of section 560.155, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, is amended to read:

560.155 Gold and silver coin as legal tender.—

(1) A money services business may not be required to transmit ~~offer products or services, including, but not limited to, transmitting, storing, exchanging, or accepting payment in~~ gold coin or silver coin. To the extent that a money services business offers such transmissions ~~products or services~~, the money services business must do all of the following, as applicable:

(a) ~~Except as provided in s. 560.214,~~ Maintain separate accounts for any gold coin or silver coin and not commingle such gold coin or silver coin with any other accounts that hold coin

or currency of the United States or of another country.

(b) Insure the gold coin or silver coin, if not otherwise insured by a ~~an independent~~ custodian of gold coin or silver coin ~~pursuant to s. 560.214(1)(i)~~, for 100 percent of the full replacement value under an all-risk insurance policy issued by a nongovernmental operated insurer that is an authorized insurer or eligible surplus lines insurer. A licensee relying on insurance provided by the custodian must independently verify the insurance coverage is current and active.

(c) Securely store and safeguard all physical gold coin or silver coin with a custodian of gold coin or silver coin within this state.

(d) Ensure that any gold coin or silver coin that is purchased for use or circulation as legal tender is from an accredited refiner or wholesaler as prescribed by commission rule which certifies that the gold coin or silver coin being purchased meets the requirements of gold coin and silver coin.

(e) Make disclosures to a customer at the inception of the relationship for providing products or services relating to gold coin or silver coin before a customer initially purchases or uses a money services business product or service relating to such coin, prescribed on a form adopted by the commission. The commission must adopt rules to prescribe the general form of such disclosures. Such disclosures must include, at a minimum, all of the following:

1. Notice that the value of gold coin or silver coin will fluctuate over time and that such customer should seek professional advice about whether transacting in gold coin or silver coin may incur a federal capital gains tax.

2. Notice of potential fees that may be incurred for converting gold coin or silver coin to United States dollars or other currency, or any other transaction fees that may be incurred which can be incorporated by referencing the company's terms and conditions.

3. Any additional disclosures the commission deems necessary for the protection of any person or entity that tenders or accepts gold coin or silver coin for the payment of debts, taxes, charges, or dues.

(f) Provide transparent contracts, products, services, storage terms, and fees, including, but not limited to, purchase, sale, conversion, storage, delivery, transaction, or other fees. The spot rate at which any gold coin or silver coin is converted must be disclosed at the time that the gold coin or silver coin is converted.

(g) Comply with chain of custody requirements, as prescribed by commission rule.

(h) Comply with all other applicable state and federal laws and regulations.

Section 7. Section 560.205, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, is amended to read:

560.205 Additional license application requirements.—In addition to the license application requirements under part I of this chapter, an applicant seeking a license under this part must also submit all of the following information ~~any information required to be submitted by each applicant under the relevant subsection~~ to the office:~~.~~

(1) ~~Any applicant seeking to operate as a payment instrument seller or money transmitter must provide all of the~~

~~following information to the office:~~

~~(a)~~ A sample authorized vendor contract, if applicable.

(2)~~(b)~~ A sample form of payment instrument, if applicable.

(3)~~(c)~~ Documents demonstrating that the net worth and bonding requirements specified in s. 560.209 have been fulfilled.

(4)~~(d)~~ A copy of the applicant's financial audit report for the most recent fiscal year. If the applicant is a wholly owned subsidiary of another corporation, the financial audit report on the parent corporation's financial statements satisfies this requirement.

~~(2) Any applicant seeking to operate as a money transmitter that is a custodian of gold coin or silver coin must also provide all of the following additional information to the office:~~

~~(a) All requirements specified in subsection (1).~~

(5)~~(b)~~ Evidence, as prescribed by commission rule, demonstrating an applicant's compliance with s. 560.155(1)(a)-(g), if such applicant intends to act as a money transmitter that transmits gold coin or silver coin ~~of:~~

~~1. Insurance against loss for all gold coin or silver coin held in its custody;~~

~~2. Custody of the exact quantity and type of asset for all of its customers' gold coin or silver coin held in its physical custody; and~~

~~3. Depository accreditation from an entity approved by the office~~.

~~(c) A statement of a business plan providing for the safe and sound operation of custodial services pertaining to the~~

~~storage, security, insurance, auditing, administration, authorized access, transacting, and transfer of gold coin or silver coin to the satisfaction of the office or in accordance with rules adopted by the commission.~~

Section 8. Section 560.214, Florida Statutes, is repealed.

Section 9. Paragraph (a) of subsection (1) of section 280.21, Florida Statutes, is amended to read:

280.21 Custodians of gold coin and silver coin.—

(1) A custodian of gold coin or silver coin as defined in s. 560.103 which holds public deposits must do all of the following:

(a) Meet the definition of a qualified public depository as defined in s. 280.02, except that such custodian is not required to be insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund for purposes of holding gold coin or silver coin as defined in s. 215.986. ~~Such custodian must maintain insurance as prescribed in s. 560.214.~~

Section 10. Paragraph (a) of subsection (4) of section 559.952, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, is amended to read:

559.952 Financial Technology Sandbox.—

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

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

1. Section 516.03(1), except for the application fee, the investigation fee, the requirement to provide the social

security numbers of control persons, evidence of liquid assets of at least $25,000 or documents satisfying the requirements of s. 516.05(10), and the office's authority to investigate the applicant's background. The office may prorate the license renewal fee for an extension granted under subsection (7).

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

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

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 activity of a payment instrument seller or money transmitter during the sandbox period.

12. Section 560.205(2) ~~Section 560.205 (1)(b)~~.

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 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 11. Paragraphs (a), (b), and (d) of subsection (4) of section 655.97, Florida Statutes, are amended to read:

655.97 Gold and silver coin as legal tender.—

(4) To the extent that a financial institution accepts gold coin or silver coin deposits or otherwise holds such coin on behalf of its customers, members, or the public, the financial institution must do all of the following:

(a) ~~Except as provided in s. 560.214,~~ Maintain separate accounts for any gold coin or silver coin and not commingle such gold coin or silver coin with any other accounts that hold coin or currency of the United States or of another country.

(b) Insure the gold coin or silver coin, if not otherwise insured by a custodian of gold coin or silver coin ~~pursuant to s. 560.214(1)(i)~~, for 100 percent of the full replacement value under an all-risk insurance policy issued by a nongovernmental-

operated insurer that is an authorized insurer or an eligible surplus lines insurer.

~~(d) Comply, or be responsible and accountable for any third-party vendor that stores such gold coin or silver coin on its behalf to comply, with the requirements for a custodian of gold coin or silver coin as provided in s. 560.214. A financial institution regulated under the financial institutions code of this state which acts as a custodian is exempt from obtaining a separate license as a custodian pursuant to s. 560.204(1).~~

Section 12. This act shall take effect upon becoming a law.

FOR CONSIDERATION By the Committee on Banking and Insurance

597-02588-26 20267042pb

A bill to be entitled

(PRELIMINARY DRAFT) An act relating to legal tender; providing legislative intent; providing an effective date.

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

Section 1. The Legislature intends to revise laws relating to legal tender.

Section 2. This act shall take effect July 1, 2026.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SPB 7044
INTRODUCER:	For consideration by the Banking and Insurance Committee
SUBJECT:	Public Records
DATE:	February 10, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson		**Pre-meeting**

I. Summary:

SPB 7044 expands current public records exemptions that apply to money services businesses and financial institutions, including anti-money laundering provisions, to exempt from public records disclosure requirements records relating to custodians of gold and silver coin that is made legal tender under ch. 100-2025, Laws of Florida. This is done by reenacting public records exemptions relevant to custodians and providing updated public necessity statements.

The bill provides that the reenacted public records exemptions to which the Open Government Sunset Review Act applies will be repealed on October 2, 2031, unless the statutes are reviewed and reenacted by the Legislature before that date.

The bill provides statements of public necessity as required by the state constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the membership of both houses of the Legislature for final passage.

There is no anticipated fiscal impact on state or local government. See Section V. Fiscal Impact Statement.

The bill is effective on the same date that sections 1 through 15 of chapter 2025-100, Laws of Florida, become effective.

II. Present Situation:

Florida Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.[1] The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three

[1] FLA. CONST., art. I, s. 24(a).

branches of state government, local governmental entities, and any person acting on behalf of the government.[2]

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.[3] The Public Records Act states that:

> [i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.[4]

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.[5] Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines "public records" to include:

> [a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to "perpetuate, communicate, or formalize knowledge of some type."[6]

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person's right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[7] A violation of the Public Records Act may result in civil or criminal liability.[8]

Only the Legislature may create an exemption to public records requirements.[9] An exemption must be created by general law and must specifically state the public necessity justifying the

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[2] *Id*.
[3] Public records laws are found throughout the Florida Statutes.
[4] Section 119.01(1), F.S.
[5] *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc*., 379 So. 2d 633, 640 (Fla. 1980).
[7] Section 119.07(1)(a), F.S.
[8] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.
[9] FLA. CONST. art. I, s. 24(c).

exemption.[10] Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions[11] and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[12]

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.[13] Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.[14] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[15]

Open Government Sunset Review Act

The Open Government Sunset Review Act[16] (the Act) prescribes a legislative review process for newly created or substantially amended[17] public records or open meetings exemptions, with specified exceptions.[18] It requires the automatic repeal of such exemption on October 2 of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[19]

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.[20] An exemption serves an identifiable public purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;[21]
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;[22] or

[10] *Id.*
[11] The bill may, however, contain multiple exemptions that relate to one subject.
[12] FLA. CONST. art. I, s. 24(c)
[13] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[14] *Id.*
[15] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).
[16] Section 119.15, F.S.
[17] An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.
[18] Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.
[19] Section 119.15(3), F.S.
[20] Section 119.15(6)(b), F.S.
[21] Section 119.15(6)(b)1., F.S.
[22] Section 119.15(6)(b)2., F.S.

- It protects information of a confidential nature concerning entities, such as trade or business secrets.[23]

The Act also requires specified questions to be considered during the review process.[24] In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.[25] If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.[26]

Financial Regulation

The Office of Financial Regulation (OFR) is responsible for regulating all activities of state-chartered banks, state-chartered credit unions, other financial institutions, finance companies, and the securities industry (together, the "financial services").[27] The number of licensees or state-chartered institutions regulated by the office is summarized below:[28]

Division	Number of Persons Regulated
Division of Consumer Finance	122,530
Division of Financial Institutions	196
Division of Securities	403,627
Total Regulated Persons	526,353

Money Services Businesses

The OFR regulates money services businesses[29] (MSB) under ch. 560, F.S. There are several types of money services businesses, including a payment instrument seller, foreign currency

[23] Section 119.15(6)(b)3., F.S.
[24] Section 119.15(6)(a), F.S. The specified questions are:
- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

[25] FLA. CONST. art. I, s. 24(c). *See generally* s. 119.15, F.S.
[26] Section 119.15(7), F.S.
[27] Section 20.121(3)(a)2., F.S.
[28] Florida Office of Financial Regulation, *Fast Facts* (Jan. 2025 ed.), available at: fast-facts.pdf (last visited Jan. 7, 2026) (hereinafter cited as "2025 OFR Fast Facts").
[29] Section 560.103(23), F.S., defines "money services business" as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.

exchanger, check casher, or money transmitter.[30] The OFR is responsible for enforcing regulations and imposing disciplinary actions against MSBs.[31]

Confidentiality of Information and Records

Current law contains several provisions which make confidential and exempt from the Public Records Act certain records or information of money services businesses relating to:

- Investigations and examinations conducted by the OFR, including any customer complaint received by the OFR or the Department of Financial Services, until the investigation or examination ceases to be active;[32]
- Trade secrets[33] or personal financial information obtained by the OFR during its investigation or examination;[34]
- A consumer complaint or other information concerning an investigation or examination for a specified reason.[35]

Any person who willfully discloses any of the above confidential and exempt information commits a third degree felony.[36]

Confidentiality of Database of Payment Instrument Transactions

Check cashers and foreign currency exchangers must maintain a copy of each payment instrument cashed.[37] If the payment instrument exceeds $1,000, additional information must be maintained or submitted to database, such as the payor name, payee name, amount of the payment instrument, and amount of currency provided.[38] Such payment instrument transaction information held by the OFR which identifies a licensee, payor, payee, or conductor is confidential and exempt from public records disclosures.[39]

Database for Deferred Presentment Providers

The OFR is required to implement a common database with real-time access for deferred presentment providers in order to verify whether any deferred presentment transactions are outstanding for a particular person.[40] Deferred presentment providers must submit specified data before entering into each deferred present transaction, such as the drawer's name, social security

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[30] *Id*.
[31] Section 560.114(1), F.S.
[32] Section 560.129(1), F.S. (providing an investigation or examination is "active so long as the office or any other administrative, regulatory, or law enforcement agency of any jurisdiction is proceeding with reasonable dispatch and has a reasonable good faith belief that action may be initiated by the office or other administrative, regulatory, or law enforcement agency").
[33] "Trade secrets" is defined as information, including a formula, pattern, compilation, program, device, method, technique, or process that meets specified criteria. Section 688.002(4), F.S.
[34] Section 560.129(2), F.S.
[35] Section 560.129(4), F.S. (providing the reasons, including (a) Jeopardize the integrity of another active investigation; (b) Reveal personal financial information: (c) Reveal the identity of a confidential source; or (d) Reveal investigative techniques or procedures).
[36] A third degree felony is punishable by up to five years imprisonment and up to a $5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.
[37] Section 560.310(1), F.S.
[38] Section 560.310(2), F.S.
[39] Section 560.312, F.S.
[40] Section 560.404(24), F.S.

number or employment authorization alien number, address, amount of the transaction.[41] Information that identifies a drawer or a deferred presentment provider contained in a database of deferred presentment transactions is confidential and exempt.[42]

Financial Institutions

A financial institution must have a federal or state charter to accept deposits. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency (OCC) within the U.S. Department of the Treasury or as state banks by a state regulator.[43] The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, and related entities.[44] Of the 196 financial entities regulated by the OFR, 57 of them are state-chartered banks.[45] There are also approximately 30 federally-chartered banks operating in Florida.[46]

Confidentiality of Information and Records

Certain information and records of financial institutions are confidential and exempt from the Public Records Act, including:

- Investigations conducted by the OFR until the investigation is completed or ceases to be active[47] except for specified reasons;[48,49]

[41] *Id.*
[42] Section 560.4041, F.S.
[43] Congressional Research Service, *Introduction to Financial Services: Banking*, p. 1, January 5, 2023, available at: https://crsreports.congress.gov/product/pdf/IF/IF10035 (last visited Jan. 6, 2026).
[44] Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes: Ch. 655, financial institutions generally; Ch. 657, credit unions; Ch. 658, banks and trust companies; Ch. 660, trust business; Ch. 662, family trust companies; Ch. 663, international banking; Ch. 665, relating to associations; and Ch. 667, savings banks.
[45] 2025 OFR Fast Facts.
[46] The OCC, *National Banks Active As of 11/30/2025*, November 30, 2025, available at national-by-state.pdf (last visited Jan. 6, 2026).
[47] Section 655.057(1), F.S., provides an investigation is "active while such investigation is being conducted by the office within a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings."
[48] *Id.* (providing the reasons, including (a) Jeopardize the integrity of another active investigation; (b) Impair the safety and soundness of the financial institution; (c) Reveal personal financial information: (d) Reveal the identity of a confidential source; (e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or (f) Reveal investigative techniques or procedures).
[49] Section 655.057(1), F.S.

- Reports of examinations,[50] operations, or condition, including working papers,[51] or portions thereof, prepared by, or for the use of, the OFR or any state or federal agency responsible for the regulation or supervision of financial institutions[52] in Florida;[53]
- Informal enforcement actions;[54,55]
- Trade secrets[56] held by the OFR;[57]
- Relating to certain information received by the OFR in an application for authority to organize a new state bank[58] or new state trust company.[59,60]
- Any portion of a required shareholder list which reveals the shareholders' identities;[61] and
- Confidential documents supplied to the OFR or to employees of any financial institution by other state or federal governmental agencies.[62]

Any person who willfully discloses information made confidential commits a felony of the third degree.[63] The exemptions do not prevent or restrict:[64]

- Publishing certain reports that must be submitted to the OFR or that are required to be published by federal law or regulation;
- Providing records or information to any other state, federal, or foreign agency responsible for the regulation and supervision of financial institutions;

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[50] "Examination report" is defined as records submitted to or prepared by the [OFR] as part of the [OFR's] duties performed pursuant to s. 655.012, F.S., or s. 655.045(1), F.S. Section 655.057(12)(a), F.S.
[51] "Working papers" is defined as the records of the procedures followed, the tests performed, the information obtained, and the conclusions reached in an examination or investigation performed under s. 655.032, F.S., or s. 655.045, F.S. Working papers include planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of the books and records of a financial institution as defined in s. 655.005(1), F.S., and scheduled or commentaries prepared or obtained in the course of such examination or investigation.
[52] "Financial institution" is defined as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq. Section 655.005(1)(i), F.S.
[53] Section 655.057(2), F.S.
[54] "Informal enforcement actions" is defined as a board resolution, a document of resolution, or an agreement in writing between the office and a financial institution which meets certain criteria. Section 655.057(12)(b), F.S.
[55] Section 655.057(3), F.S.
[56] Supra note 33; The trade secret must also comply with s. 655.0591, F.S.
[57] Section 655.057(4), F.S.
[58] "State bank" is defined as any bank which has a subsisting bank charter issued pursuant to the provisions of the financial institutions codes or the general banking laws of this state in effect prior to the enactment of the financial institutions codes. Section 658.12(17), F.S.
[59] "State trust company" is defined as a corporation, other than a bank, which has a subsisting trust company charter issued pursuant to the provisions of the financial institutions codes or the applicable laws of the state in effect prior to the enactment of the financial institutions codes. Section 658.12(19), F.S.
[60] Section 655.057(5), F.S. (providing the following information as confidential and exempt from public records disclosure requirements: 1. Personal financial information; 2. A driver license number, a passport number, a military identification number, or any other number or code issued on a government document used to verify identity; 3. Books and records of a current or proposed financial institutions; and 4. The proposed business plan and supporting documentation).
[61] Section 655.057(9), F.S.
[62] Section 655.057(10), F.S.
[63] Section 655.057(14), F.S.; Supra note 36.
[64] Section 655.057(6), F.S.

- Disclosing or publishing summaries of the economic condition or similar data of financial institutions;
- Reporting any suspicious criminal activity to appropriate law enforcement or prosecutorial agencies;
- Furnishing certain information requested by the Chief Financial Officer or specified agency of any financial institution that is, or has applied to be, designated as a qualified public depository; and
- Furnishing information to Federal Home Loan Banks regarding its member institutions.

Any confidential information and records obtained from the OFR based on these exemptions must be maintained as confidential and exempt from public records disclosure requirements.[65]

Orders to produce confidential records or information issued by courts or administrative law judges must provide for inspection in camera by the court or administrative law judge. Other procedural safeguards are provided for in the Financial Institutions Codes to protect the confidentiality of the records or information, including provisions that an order directing the release of information is reviewable by the OFR. [66]

The OFR must retain the original and any copies of examination reports, investigatory records, applications, and related information compiled by the OFR for at least 10 years.[67]

Anit-Money Laundering Regulation

Federal Regulation

Suspicious Activity Reports

Federal law authorizes the Secretary of Treasury to require any financial institution or any of its directors, officers, employees, or agents to report any suspicious transaction to a possible violation of law or regulation.[68] Federal regulation requires a bank to file a suspicious activity report in certain circumstances, such as the transaction involves funds derived from illegal activities, the transaction is designed to evade any requirements of the Bank Secrecy Act, or the transaction has no business or apparent lawful purpose.[69] Federal law prohibits the reporter of such information from disclosing the report.[70]

Currency Transaction Report

Federal law also requires a financial institution to file a report of each deposit, withdrawal, exchange of currency or other payment or transfer by, through, or to such financial institution in currency more than $10,000 unless an exception applies.[71] Federal law makes these reports confidential and prohibits state public-records laws.[72]

[65] *Id.*
[66] Section 655.057(7), F.S.
[67] Section 655.057(11), F.S.
[68] 31 U.S.C. s. 5318(g)(1).
[69] 31 C.F.R. s. 1020.320(2).
[70] 31 U.S.C. s. 5318(g)(2); 31 C.F.R. s. 1020.320(e).
[71] 31 U.S.C. s. 5313(a); 31 C.F.R. s. 1010.311.
[72] 31 U.S.C. s. 5319.

Florida Regulation

Florida law requires a financial institution to keep a record of each transaction in the state that involves currency or other monetary instrument that has a value greater than $10,000 and involves proceeds of specified unlawful activity, or is designed to evade certain reporting requirements, or which the financial institution reasonably believes is suspicious activity.[73] Multiple financial transactions must be treated as a single transaction.[74]

Each financial institution must file a report of the required records with the OFR.[75] Timely filing a report required under 31 U.S.C. s. 5313 and 31 C.F.R. part 1020 with the appropriate federal agency is deemed compliance with the reporting requirements in Florida law unless the reports are not regularly and comprehensively transmitted by the federal agency to the OFR.[76] Florida makes the records that are required to be filed with the OFR confidential and exempt from public records disclosure requirements.[77]

Regulation of Gold and Silver Coin[78]

Florida adopted laws last session to recognize gold and silver as legal tender in the state if certain conditions are met.[79] The laws regulate money services businesses and financial institutions that offer products and services in gold coin[80] and silver coin.[81,82] The laws established a new category of money transmitters, which is a type of MSB, that are regulated for safekeeping and storing gold and silver coin.[83]

MSBs, including custodians, and financial institutions are required to comply with several consumer protections relating to gold and silver coin that are expected to result in additional information and records obtained by the OFR in the course of its investigations, examinations, application process, collection of anti-money laundering reports, and other related supervisory

[73] Section 655.50(5), F.S.
[74] Section 655.50(5)(a), F.S.
[75] Section 655.50(5)(d), F.S.
[76] Section 655.50(5)(e), F.S.
[77] Section 655.50(7), F.S.
[78] Chapter 2025-100, L.O.F. (providing an effective date of July 1, 2026, except as expressly provided otherwise in the act).
[79] Section 215.986, F.S.
[80] Section 215.986(1)(c), F.S., defines "gold coin" as a precious metal with the chemical element of atomic number 79 in solid form, in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and stamped or imprinted with its weight and purity and which solid form of chemical element atomic number 79 consists of at least 99.5 percent purity. The term does not include any goods as defined in s. 672.105(1), such as jewelry; other items of utility, such as picture frames; or collectibles.
[81] Section 215.986(1)(f), F.S., defines "silver coin" as a precious metal with the chemical element of atomic number 47 in solid form, in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and is stamped or imprinted with its weight and purity and which solid form of chemical element atomic number 47 consists of at least 99.9 percent purity. The term does not mean any goods as defined in s. 672.105(1), such as jewelry; other items of utility, such as picture frames; or collectibles.
[82] Sections 560.155 and 655.97, F.S.
[83] Sections 560.103(26)(b), F.S. and 560.214, F.S.

functions. Examples of such information and records include, for instance, disclosure requirements,[84] financial information,[85] and chain of custody documents.[86]

III. Effect of Proposed Changes:

SPB 7044 expands the application of certain public records exemptions in current law to also exempt records relating to custodians of gold and silver coin. The exemptions contained in the proposed bill are those addressing:

- Money services businesses in ss. 560.129, 560.312, and 560.4041, F.S.
- Financial institutions in s. 655.057(1)-(4), (6), and (10), F.S.
- Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act in s. 655.50(5)(d), F.S.

Section 1 reenacts portions of the public records exemptions in the money services business provisions relating to the following information or records:

- Active investigations or examinations;[87]
- Information obtained by the OFR during an investigation or examination which is a trade secret;[88] and
- Specified consumer complaints and other information concerning an investigation or examination after the investigation is no longer active if certain conditions are met.[89]

The expanded exemptions of s. 560.129(1), (2), and (4), F.S., are subject to the Open Government Sunset Review Act and is repealed on October 2, 2031, unless reviewed and reenacted by the Legislature before that date.

Section 2 reenacts the public records exemption relating to payment instrument transaction information held by the OFR which identifies a licensee, payor, payee, or conductor. The expanded exemption of s. 560.312, F.S., is subject to the Open Government Sunset Review Act and is repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3 reenacts the public records exemption relating to information that identifies a drawer or a deferred presentment provider contained in a database required to be implemented by the OFR pursuant to s. 560.404(24), F.S. The expanded exemption of s. 560.4041, F.S., is subject to the Open Government Sunset Review Act and is repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4 provides a public necessity statement for the expansion of the public records exemption of s. 560.129, F.S.

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[84] Sections 560.155(1)(e) and 655.97(4)(f), F.S.
[85] Sections 560.155(1)(a) and 655.97(4)(a), F.S.
[86] Sections 560.155(1)(g) and 655.97(4)(h), F.S.
[87] Supra note 32.
[88] Supra notes 33 – 34.
[89] Supra note 35.

Section 5 reenacts portions of public records exemptions in the financial institutions provisions relating to the following information or records:

- Active investigations and after an investigation is completed if certain conditions are met;[90]
- Specified reports prepared by or for the use of the OFR or any state or federal agency;[91]
- Certain records related to informal enforcement actions;[92]
- Trade secrets held by the OFR;[93]
- Those furnished or reported information or records obtained from the OFR;[94]
- Confidential documents supplied to the OFR or to employees of any financial institution by other state or federal governmental agencies.[95]

The expanded exemption in s. 655.057(1)-(4), (6), and (10), F.S., are subject to the Open Government Sunset Review Act and is repealed on October 2, 2031, unless reviewed and reenacted by the Legislature before that date.

Section 6 provides a public necessity statement for the expansion of the public records exemption of s. 655.057, F.S.

Section 7 reenacts the public records exemption for all reports and records filed with the OFR under the Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act ("Control of Money Laundering and Terrorist Financing Act").

Generally, a public records exemption must be reviewed and saved from appeal or the exemption will be repealed on October 2nd of the 5th year after enactment ("OGSR").[96] However, this requirement does not apply to an exemption that is required by federal law.[97] Since federal law prohibits the disclosure of the existence of a suspicious activity report (SAR) and any information that would reveal that a SAR has been filed,[98] there is no OGSR with respect to the expansion of the public records exemption in the Control of Money Laundering and Terrorist Financing Act.

Section 8 provides a public necessity statement for the expansion of the public records exemption of s. 655.50, F.S.

Section 9 provides the bill is effective on the same date that sections 1 through 15 of chapter 2025-100, Laws of Florida, become effective.

[90] Supra notes 41 – 43.
[91] Supra notes 44 – 47.
[92] Supra notes 48 – 49.
[93] Supra notes 50 - 51.
[94] Supra notes 58-59.
[95] Supra note 56.
[96] Section 119.15(2) and (3), F.S.
[97] Section 119.15(2)(a), F.S.
[98] 31 U.S.C. s. 5318(g)(2); 31 C.F.R. s. 1020.320(e).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is no anticipated fiscal impact on state or local government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 560.129, 560.312, 560.4041, 655.057, and 655.50

IX. Additional Information:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Banking and Insurance

597-02589A-26 20267044pb

A bill to be entitled

An act relating to public records; reenacting and amending s. 560.129, F.S.; expanding a public records exemption for certain information obtained by the Office of Financial Regulation concerning or during the course of an investigation or examination conducted by the office, including customer and consumer complaints, to incorporate the inclusion of money transmitters acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing for future legislative review and repeal of the exemption; reenacting and amending s. 560.312, F.S.; expanding a public records exemption for payment instrument transactions to incorporate the inclusion of money transmitters acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing for future legislative review and repeal of the exemption; amending s. 560.4041, F.S.; expanding a public records exemption for deferred presentment transactions to incorporate the inclusion of money transmitters acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; reenacting and amending s. 655.057, F.S.; expanding a public records exemption for certain information obtained by the office concerning an investigation or examination conducted by the office,

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including reports or papers of examinations, operations, or condition and trade secrets, to incorporate the inclusion of financial institutions acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; reenacting and amending s. 655.50, F.S.; expanding a public records exemption for reports and records filed with the office to incorporate the inclusion of financial institutions acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (8) is added to section 560.129, Florida Statutes, and subsections (1), (2), and (4) of that section are reenacted, to read:

560.129 Confidentiality.—

(1) Except as otherwise provided in this section, all information concerning an investigation or examination conducted by the office pursuant to this chapter, including any customer complaint received by the office or the Department of Financial Services, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active. For purposes of this

section, an investigation or examination is considered "active" so long as the office or any other administrative, regulatory, or law enforcement agency of any jurisdiction is proceeding with reasonable dispatch and has a reasonable good faith belief that action may be initiated by the office or other administrative, regulatory, or law enforcement agency.

(2) All information obtained by the office in the course of its investigation or examination which is a trade secret, as defined in s. 688.002, or which is personal financial information shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. If any administrative, civil, or criminal proceeding against a money services business, its authorized vendor, or an affiliated party is initiated and the office seeks to use matter that a licensee believes to be a trade secret or personal financial information, such records shall be subject to an in camera review by the administrative law judge, if the matter is before the Division of Administrative Hearings, or a judge of any court of this state, any other state, or the United States, as appropriate, for the purpose of determining if the matter is a trade secret or is personal financial information. If it is determined that the matter is a trade secret, the matter shall remain confidential. If it is determined that the matter is personal financial information, the matter shall remain confidential unless the administrative law judge or judge determines that, in the interests of justice, the matter should become public.

(4) Except as necessary for the office or any other administrative, regulatory, or law enforcement agency of any jurisdiction to enforce the provisions of this chapter or the

law of any other state or the United States, a consumer complaint and other information concerning an investigation or examination shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution after the investigation or examination ceases to be active to the extent that disclosure would:

(a) Jeopardize the integrity of another active investigation;

(b) Reveal personal financial information;

(c) Reveal the identity of a confidential source; or

(d) Reveal investigative techniques or procedures.

(8) Subsections (1), (2), and (4) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsection (4) is added to section 560.312, Florida Statutes, and subsection (1) of that section is reenacted, to read:

560.312 Database of payment instrument transactions; confidentiality.—

(1) Payment instrument transaction information held by the office pursuant to s. 560.310 which identifies a licensee, payor, payee, or conductor is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(4) Subsection (1) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Section 560.4041, Florida Statutes, is amended

to read:

560.4041 Database for deferred presentment providers; public records exemption.—

(1) Information that identifies a drawer or a deferred presentment provider contained in the database authorized under s. 560.404 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. A deferred presentment provider may access information that it has entered into the database and may obtain an eligibility determination for a particular drawer based on information in the database.

(2) Subsection (1) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. (1) The Legislature finds all of the following:

(a) That it is a public necessity that all information concerning an investigation or examination of a money services business conducted by the Office of Financial Regulation pursuant to chapter 560, Florida Statutes, including a consumer complaint, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution until the investigation or examination ceases to be active. The Legislature further finds that such information should remain confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution after the investigation or examination ceases to be active if its disclosure would jeopardize the office's investigations by revealing techniques or procedures or otherwise reveal information that is being used in another investigation, or if

disclosure would reveal personal financial information or a confidential source.

(b) That it is a public necessity that trade secrets or personal financial information obtained by the office in the course of an investigation or examination pursuant to chapter 560, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, unless an administrative law judge or circuit judge determines that the release of personal financial information to the public is in the interest of justice.

(c) That it is a public necessity that payment instrument transaction information held by the office pursuant to s. 560.310, Florida Statutes, which identifies a licensee, payor, payee, or conductor be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

(d) That it is a public necessity that deferred presentment transaction information held by the office pursuant to s. 560.404, Florida Statutes, which identifies a drawer or a deferred presentment provider be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

(2) Information specified in paragraphs (1)(a) and (b) is held by the office in conjunction with its investigations and examinations of money services businesses, which include money transmitters, as defined in s. 560.103, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, to include custodians of gold coin or silver coin. Custodians of gold coin or silver coin are thus subject to investigation or examination

by the office. As a result, the office may receive sensitive personal and financial information relating to such entities in conjunction with its duties under chapter 560, Florida Statutes. An exemption from public records requirements provides the same protections to custodians of gold coin or silver coin as are afforded to other money services businesses, thereby preventing any disadvantage to these similarly regulated entities in comparison to other entities currently classified as money services businesses. An exemption from public records requirements for reports of examinations, operations, or condition, including working papers, is necessary to ensure the office's ability to effectively and efficiently administer its examination and investigation duties. Examination and investigation are essential components of financial institutions regulation. They deter fraud and ensure the safety and soundness of the financial system. Examinations also provide a means of early detection of violations, allowing for corrective action to be taken before any harm can be done. Release of such information could compromise the office's investigations and examinations, reveal investigative techniques, or result in the disclosure of an individual's personal financial information. Such disclosure could also result in the release of inaccurate information, which could harm the subject of the examination or investigation, or otherwise impair commerce relating to money services businesses. The Legislature finds that there is little public benefit derived from access to such information during the office's investigation or examination, and that the exemption is narrowly tailored to allow for release except where the public benefit is outweighed by harm to either the office's

investigations or to individuals whose personal financial information may be disclosed.

(3) Information specified in paragraphs (1)(c) and (d) held by the office in its database of payment instrument transactions pursuant to s. 560.312, Florida Statutes, and deferred presentment transactions pursuant to s. 560.404, Florida Statutes, may include information that identifies money transmitters, as defined in s. 560.103, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, to include custodians of gold coin or silver coin. As a result, the office may receive sensitive personal and financial information relating to custodians of gold coin or silver coin that cash a payment instrument exceeding $1,000 or deferred presentment transactions for a particular person. An exemption from public records requirements for custodians of gold coin and silver coin provides the same protections to custodians of gold coin or silver coin as are afforded to other money services businesses, thereby preventing any disadvantage to these similarly regulated entities in comparison to other entities currently classified as money services businesses. An exemption from public records requirements for payment instrument transactions is necessary to deter money laundering and identity theft and related crimes through such custodians. The availability of this information to the office will help increase premium collection, lower costs to insurance carriers, and alleviate premium avoidance, as well as reduce the cost of administering these public programs. However, the public availability of payment instrument transaction or deferred presentment transaction information would reveal sensitive, personal financial information about payees and

conductors who use check-cashing and deferred presentment programs, including paycheck amounts, salaries, and business activities, as well as information regarding the financial stability of these custodians. Such information is traditionally private and sensitive. Protecting the confidentiality of such information that would identify these payees and custodians would provide adequate protection for these persons while still providing public oversight of the check-cashing and deferred presentment programs. The public release of payment instrument transaction and deferred presentment transaction information would also identify licensees or payors and reveal business transaction information that is traditionally private and could be used by competitors to harm other licensees or payors in the marketplace. If such information were publicly available, competitors could determine the amount of business conducted by other licensees or payors.

Section 5. Subsection (15) is added to section 655.057, Florida Statutes, and subsections (1) through (4), (6), and (10) of that section are reenacted, to read:

655.057 Records; limited restrictions upon public access.—

(1) Except as otherwise provided in this section and except for such portions thereof which are otherwise public record, all records and information relating to an investigation by the office are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such investigation is completed or ceases to be active. For purposes of this subsection, an investigation is considered "active" while such investigation is being conducted by the office with a reasonable, good faith belief that it may lead to the filing of

administrative, civil, or criminal proceedings. An investigation does not cease to be active if the office is proceeding with reasonable dispatch, and there is a good faith belief that action may be initiated by the office or other administrative or law enforcement agency. After an investigation is completed or ceases to be active, portions of the records relating to the investigation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution to the extent that disclosure would:

(a) Jeopardize the integrity of another active investigation;

(b) Impair the safety and soundness of the financial institution;

(c) Reveal personal financial information;

(d) Reveal the identity of a confidential source;

(e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or

(f) Reveal investigative techniques or procedures.

(2) Except as otherwise provided in this section and except for such portions thereof which are public record, reports of examinations, operations, or condition, including working papers, or portions thereof, prepared by, or for the use of, the office or any state or federal agency responsible for the regulation or supervision of financial institutions in this state are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such reports or papers or portions thereof may be released to:

(a) The financial institution under examination;

(b) Any holding company of which the financial institution is a subsidiary;

(c) Proposed purchasers if necessary to protect the continued financial viability of the financial institution, upon prior approval by the board of directors of such institution;

(d) Persons proposing in good faith to acquire a controlling interest in or to merge with the financial institution, upon prior approval by the board of directors of such financial institution;

(e) Any officer, director, committee member, employee, attorney, auditor, or independent auditor officially connected with the financial institution, holding company, proposed purchaser, or person seeking to acquire a controlling interest in or merge with the financial institution; or

(f) A fidelity insurance company, upon approval of the financial institution's board of directors. However, a fidelity insurance company may receive only that portion of an examination report relating to a claim or investigation being conducted by such fidelity insurance company.

(g) Examination, operation, or condition reports of a financial institution shall be released by the office within 1 year after the appointment of a liquidator, receiver, or conservator to the financial institution. However, any portion of such reports which discloses the identities of depositors, bondholders, members, borrowers, or stockholders, other than directors, officers, or controlling stockholders of the institution, shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Any confidential information or records obtained from the office pursuant to this subsection shall be maintained as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) Except as otherwise provided in this section and except for those portions that are otherwise public record, after an investigation relating to an informal enforcement action is completed or ceases to be active, informal enforcement actions are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution to the extent that disclosure would:

(a) Jeopardize the integrity of another active investigation.

(b) Impair the safety and soundness of the financial institution.

(c) Reveal personal financial information.

(d) Reveal the identity of a confidential source.

(e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual.

(f) Reveal investigative techniques or procedures.

(4) Except as otherwise provided in this section and except for those portions that are otherwise public record, trade secrets as defined in s. 688.002 which comply with s. 655.0591 and which are held by the office in accordance with its statutory duties with respect to the financial institutions codes are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(6) This section does not prevent or restrict:

(a) Publishing reports that are required to be submitted to

the office pursuant to s. 655.045(2) or required by applicable federal statutes or regulations to be published.

(b) Furnishing records or information to any other state, federal, or foreign agency responsible for the regulation or supervision of financial institutions.

(c) Disclosing or publishing summaries of the condition of financial institutions and general economic and similar statistics and data, provided that the identity of a particular financial institution is not disclosed.

(d) Reporting any suspected criminal activity, with supporting documents and information, to appropriate law enforcement and prosecutorial agencies.

(e) Furnishing information upon request to the Chief Financial Officer or the Division of Treasury of the Department of Financial Services regarding the financial condition of any financial institution that is, or has applied to be, designated as a qualified public depository pursuant to chapter 280.

(f) Furnishing information to Federal Home Loan Banks regarding its member institutions pursuant to an information sharing agreement between the Federal Home Loan Banks and the office.

Any confidential information or records obtained from the office pursuant to this subsection shall be maintained as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(10) Materials supplied to the office or to employees of any financial institution by other state or federal governmental agencies remain the property of the submitting agency or the

corporation, and any document request must be made to the appropriate agency. Any confidential documents supplied to the office or to employees of any financial institution by other state or federal governmental agencies are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information shall be made public only with the consent of such agency or the corporation.

(15) Subsections (1)-(4), (6), and (10) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and are repealed October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. (1) The Legislature finds that it is a public necessity that all records and information relating to an investigation by the Office of Financial Regulation undertaken pursuant to chapter 655, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution until the investigation ceases to be active. The Legislature further finds that such information should remain confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution after the investigation ceases to be active if its disclosure would jeopardize the office's investigations by revealing techniques or procedures, or otherwise reveal information that is being used in another investigation; reveal personal financial information or a confidential source; or defame or cause unwarranted damage to an individual's reputation or jeopardize his or her safety.

(2) Information specified in s. 655.057(1)-(4), (6), and (10) is held by the office in conjunction with investigations of

financial institutions which may include records concerning gold coin or silver coin products or services offered by such institutions, as authorized in s. 215.986(2)(e), Florida Statutes, enacted in chapter 2025-100, Laws of Florida. As a result, the office may receive sensitive personal and financial information relating to such institutions in conjunction with its duties under chapter 655, Florida Statutes. An exemption from public records requirements provides the same protections to custodians of gold coin or silver coin as are afforded to other financial institutions, thereby preventing any disadvantage to these similarly regulated entities in comparison to other entities currently classified as financial institutions. An exemption from public records requirements for reports of examinations, operations, or condition, including working papers, is necessary to ensure the office's ability to effectively and efficiently administer its examination and investigation duties. Examination and investigation are essential components of financial institutions regulation. They deter fraud and ensure the safety and soundness of the financial system. Examinations also provide a means of early detection of violations, allowing for corrective action to be taken before any harm can be done.

(3) The Legislature finds that it is a public necessity to make confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution records and information relating to an investigation by the Office of Financial Regulation; portions of records relating to a completed or inactive investigation by the office which would jeopardize the integrity of another active investigation, impair

the safety and soundness of the financial institution, reveal personal financial information, reveal the identity of a confidential source, defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual, or reveal investigative techniques or procedures; reports of examinations, operations, or condition, including working papers, or portions thereof, prepared by, or for the use of, the office or any state or federal agency responsible for the regulation or supervision of financial institutions in this state, until 1 year after the appointment of a liquidator; any portion of such reports which discloses the identities of depositors, bondholders, members, borrowers, or stockholders, other than directors, officers, or controlling stockholders of the institution; trade secrets held by the office in accordance with its statutory duties under chapter 655, Florida Statutes, unless an administrative law judge or circuit judge determines that the release of personal financial information to the public is in the interest of justice; and materials supplied to the office or to employees of any financial institution by other state or federal governmental agencies.

(4) Release of information specified in s. 655.057(1)-(4), (6), and (10) could compromise the office's investigations and examinations, reveal investigative techniques, result in the disclosure of an individual's personal financial information, or defame or cause unwarranted damage to the good name or reputation of an individual or entity or jeopardize his or her safety. Such disclosure could also result in the spread of inaccurate information, which could harm the subject of the

examination or investigation, or otherwise impair commerce conducted by financial institutions in this state. Any portion of a record or information relating to an investigation or examination which reveals personal financial information or the identity of a confidential source may defame, or cause unwarranted damage to the good name or reputation of, those individuals, or jeopardize their safety.

(5) A trade secret derives independent economic value, actual or potential, from not being generally known to, and not readily ascertainable by, other persons who can obtain economic value from the disclosure or use of the trade secret. Without an exemption for a trade secret held by the office in accordance with its duties prescribed by chapter 655, Florida Statutes, that trade secret becomes a public record when received and must be divulged upon request. Divulging a trade secret under the public records law would give business competitors an unfair advantage and destroy the value of that property, causing a financial loss to the person or entity submitting the trade secret and weakening the position of that person or entity in the marketplace.

(6) The Legislature finds that there is little public benefit derived from access to such information during the office's investigation, and that the exemption is narrowly tailored to allow for release except when the public benefit is outweighed by harm to individuals or institutions, when the disclosure would jeopardize other investigations, reveal the office's investigative techniques or procedures, or expose personal financial information or a confidential source.

Section 7. Subsection (7) of section 655.50, Florida

Statutes, is amended, and paragraph (d) of subsection (5) of this section is reenacted, to read:

655.50 Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act.—

(5) A financial institution shall keep a record of each financial transaction occurring in this state known to it which involves currency or other monetary instrument, as the commission prescribes by rule, has a value greater than $10,000, and involves the proceeds of specified unlawful activity, or is designed to evade the reporting requirements of this section, chapter 896, or similar state or federal law, or which the financial institution reasonably believes is suspicious activity. Each financial institution shall maintain appropriate procedures to ensure compliance with this section, chapter 896, and other similar state or federal law. Any report of suspicious activity made pursuant to this subsection is entitled to the same confidentiality provided under 31 C.F.R. s. 1020.320, whether the report or information pertaining to or identifying the report is in the possession or control of the office or the reporting institution.

(d) Each financial institution shall file a report of the records required under this subsection with the office. Each report shall be filed at such time and must contain such information as the commission requires by rule.

(7) All reports and records filed with the office pursuant to this section are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, the office shall provide any report filed pursuant to this section, or information contained therein, to federal, state, and local

law enforcement and prosecutorial agencies, and any federal or state agency responsible for the regulation or supervision of financial institutions.

Section 8. (1) The Legislature finds that it is a public necessity that all reports and records filed with the Office of Financial Regulation be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution unless disclosure is requested by a federal, state, or local law enforcement or prosecutorial agency or any federal or state agency responsible for the regulation or supervision of financial institutions. Information regarding potential money laundering or terrorism must be safeguarded to prevent the potential offender from being tipped off or circumventing an investigation conducted by the office, and disclosure of such information could harm the office's investigations.

(2) These reports and records are held by the office in conjunction with its duties pursuant to 31 U.S.C. s. 5313 and 31 C.F.R. part 1020 and its investigations of financial institutions' transactions involving monetary instruments concerning gold coin or silver coin products or services offered by such institutions, as authorized in s. 215.986(2)(e), Florida Statutes, enacted in chapter 2025-100, Laws of Florida, to include any transactions involving gold coin or silver coin products or services offered by such financial institutions. As a result, the office may receive sensitive personal and financial information relating to such entities in conjunction with its duties under chapter 655, Florida Statutes. An exemption from public records requirements provides the same

protections to custodians of gold coin or silver coin as are afforded to other financial institutions, thereby preventing any disadvantage to these similarly regulated entities in comparison to other entities currently classified as financial institutions. An exemption from public records requirements for reports and records submitted to the office is necessary to ensure the office's ability to effectively and efficiently administer its investigation duties. Examination and investigation are essential components of financial institutions regulation. They deter fraud and ensure the safety and soundness of the financial system. Examinations also provide a means of early detection of violations, allowing for corrective action to be taken before any harm can be done.

Section 9. This act shall take effect on the same date that sections 1 through 15 of chapter 2025-100, Laws of Florida, become effective.