

Tab 1 SB 550 by Dean; (Similar to H 0255) Volunteer Rural Firefighting

Tab 2 SB 596 by Hukill; (Compare to CS/H 1097) Assignment or Transfer of Property Insurance Rights

415826	A	S	RCS	BI, Clemens	Delete L.32 - 49:	02/01 03:52 PM
751400	A	S	WD	BI, Clemens	Delete L.72 - 76:	02/01 03:52 PM

Tab 3 SB 780 by Garcia; (Compare to CS/H 0583) Provision of Pharmaceutical Services

Tab 4 SB 986 by Simpson; (Identical to H 0613) Workers' Compensation System Administration

756866	A	S	RCS	BI, Smith	Delete L.45 - 110:	02/01 03:52 PM
563546	A	S	RCS	BI, Smith	btw L.277 - 278:	02/01 03:52 PM

Tab 5 SB 1142 by Hays; (Similar to H 0915) Treatments for Stable Patients

681578	D	S	RCS	BI, Richter	Delete everything after	02/01 03:52 PM
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Tab 6 SB 1402 by Simmons; (Identical to H 7073) Ratification of Department of Financial Services Rules

Tab 7 SB 1490 by Garcia (CO-INTRODUCERS) Soto; (Similar to CS/H 1233) Financial Institution Records

960424	D	S	L RCS	BI, Lee	Delete everything after	02/01 03:52 PM
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Tab 8 SB 1630 by Flores; (Similar to H 0289) Operations of the Citizens Property Insurance Corporation

586788	D	S	L RCS	BI, Negron	Delete everything after	02/01 03:52 PM
394444	AA	S	RCS	BI, Negron	Delete L.732:	02/01 03:52 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Benacquisto, Chair
Senator Richter, Vice Chair

MEETING DATE: Monday, February 1, 2016
TIME: 1:30—3:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Benacquisto, Chair; Senator Richter, Vice Chair; Senators Clemens, Detert, Hukill, Lee, Margolis, Montford, Negron, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 550 Dean (Similar H 255)	Volunteer Rural Firefighting; Authorizing the Division of State Fire Marshal within the Department of Financial Services to award a Volunteer Rural Firefighter Certificate of Completion; requiring the division to establish by rule courses and course examinations to provide training required to obtain the certificate; revising the circumstances under which a fire service provider may retain the services of a volunteer firefighter, etc. BI 02/01/2016 Favorable CA FP	Favorable Yeas 11 Nays 0
2	SB 596 Hukill (Compare CS/H 1097)	Assignment or Transfer of Property Insurance Rights; Providing requirements under a property insurance policy for the post-loss assignment or transfer of rights, benefits, or policy provisions not related to liability coverage; providing requirements for an agreement to assign or transfer such rights, benefits, or policy provisions; providing prohibitions and conditions that void such an agreement; providing applicability, etc. BI 01/26/2016 Temporarily Postponed BI 02/01/2016 Fav/CS JU RC	Fav/CS Yeas 10 Nays 1
3	SB 780 Garcia (Similar H 583)	Provision of Pharmaceutical Services; Providing that an insured living with a chronic illness may not be required to obtain pharmaceutical services exclusively from a mail order pharmacy; requiring health insurers to provide to an insured living with a chronic illness an explanation and comparison of payment methods and charges for pharmaceutical services from mail order pharmacies and other providers of pharmaceutical services; providing that a health maintenance organization subscriber living with a chronic illness may not be required to obtain pharmaceutical services exclusively from a mail order pharmacy, etc. BI 02/01/2016 Favorable GO AP	Favorable Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Monday, February 1, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 986 Simpson (Identical H 613)	Workers' Compensation System Administration; Requiring members of limited liability companies to submit specified notices; requiring that the Department of Financial Services allow an employer who has not previously been issued an order of penalty assessment to receive a specified credit to be applied to the penalty; eliminating the certification requirements when an expert medical advisor is selected by a judge of compensation claims; deleting the requirement that employers notify the department within 24 hours of any injury resulting in death, etc. BI 01/26/2016 Temporarily Postponed BI 02/01/2016 Fav/CS AGG AP	Fav/CS Yeas 11 Nays 0
5	SB 1142 Hays (Similar H 915)	Treatments for Stable Patients; Prohibiting an insurer or a pharmacy benefits manager from limiting or excluding coverage for a drug for an insured with a certain medical condition under certain conditions; prohibiting certain additional actions with respect to the drug by the insurer or pharmacy benefits manager under the insurance policy; providing an exception; prohibiting a health maintenance contract or a pharmacy benefits manager from limiting or excluding coverage for a drug for a subscriber with a certain medical condition under certain conditions; prohibiting certain additional actions with respect to the drug by the health maintenance contract or pharmacy benefits manager, etc. BI 02/01/2016 Fav/CS HP AP	Fav/CS Yeas 11 Nays 0
6	SB 1402 Simmons (Identical H 7073)	Ratification of Department of Financial Services Rules; Ratifying a specified rule relating to the Florida Workers' Compensation Health Care Provider Reimbursement Manual for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs; providing applicability, etc. BI 02/01/2016 Favorable FP	Favorable Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Monday, February 1, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1490 Garcia (Similar CS/H 1233)	Financial Institution Records; Specifying that certain records requirements do not prevent or restrict the Office of Financial Regulation from furnishing certain records or information to any Federal Home Loan Bank; requiring the office to make available to any Federal Home Loan Bank certain information relating to any member of a Federal Home Loan Bank, etc. BI 02/01/2016 Fav/CS GO FP	Fav/CS Yeas 11 Nays 0
8	SB 1630 Flores (Similar H 289, Compare CS/H 931, S 958)	Operations of the Citizens Property Insurance Corporation; Specifying that a consumer representative appointed by the Governor to the Citizens Property Insurance Corporation's board of governors is not prohibited from practicing in a certain profession if required or permitted by law or ordinance; requiring the corporation to maintain and make available specified lists of insurers to its agents of record, etc. BI 02/01/2016 Fav/CS EE AP	Fav/CS Yeas 11 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 550

INTRODUCER: Senator Dean

SUBJECT: Volunteer Rural Firefighting

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Favorable
2.			CA	
3.			FP	

I. Summary:

SB 550 creates a volunteer rural firefighter certificate for volunteer firefighters that work for a fire safety provider located within a municipality with a population less than 12,000 or a county with a population less than 150,000. The bill requires the department to establish by rule 160 hours of training for a volunteer rural firefighter certificate including emergency medical responder training.

II. Present Situation:

Division of the State Fire Marshal (State Fire Marshal)

State law on fire prevention and control is provided in ch. 633, F.S. Section 633.104, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.¹ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.²

The Division of the State Fire Marshal (Division) consists of the following four bureaus: the Bureau of Fire and Arson Investigations, the Bureau of Fire Standards and Training, the Bureau of Forensic Fire and Explosive Analysis, and the Bureau of Fire Prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per

¹ The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of the State Fire Marshal is located within the DFS.

² s. 633.202(1), F.S.

year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.³

National Fire Protection Association (NFPA)

The National Fire Protection Association (NFPA) is an international nonprofit organization whose mission is to reduce the worldwide burden of fire and other hazards on the quality of life by providing and advocating consensus codes and standards, research, training, and education.⁴ Membership of the NFPA includes approximately 65,000 individuals from nearly 100 nations. NFPA publishes 300 codes and standards that are designed to minimize the risk and effects of fire by establishing criteria for building, processing, design, service, and installation in the United States, as well as many other countries. Its more than 200 technical code and standard-development committees are comprised of over 6,000 volunteer seats. Volunteers vote on proposals and revisions in a process that is accredited by the American National Standards Institute (ANSI).⁵

Firefighters Employment, Standards, and Training Council

The Firefighters Employment, Standards, and Training Council (Council) is housed at the Department of Financial Services and consists of 13 members. Two members are fire chiefs appointed by the Florida Fire Chiefs Association; two members are firefighters who are not officers, appointed by the Florida Professional Firefighters Association; two members are firefighter officers who are not fire chiefs, appointed by the State Fire Marshal; one member is appointed by the Florida League of Cities; one member is appointed by the Florida Association of Counties; one member is appointed by the Florida Association of Special Districts; one member is appointed by the Florida Fire Marshal's Association; one member is appointed by the State Fire Marshal; and one member is a director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal.

The council has special powers in connection with the employment and training of firefighters as it:

- Recommends for adoption by the division, uniform minimum standards for the employment and training of firefighters and training of volunteer firefighters.
- Recommends for adoption by the division, minimum curriculum requirements for schools operated by or for any fire service provider for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters.
- Recommends for adoption by the division, on matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by this chapter.

³ Division of State Fire Marshal, *About the Florida State Fire Marshal*, <http://www.myfloridacfo.com/division/sfm/AbouttheStateFireMarshal.htm> (Last visited January 27, 2016).

⁴ National Fire Protection Association, *NFPA Overview*, <http://www.nfpa.org/about-nfpa/nfpa-overview> (Last visited January 29, 2016)

⁵ <http://www.nfpa.org/about-nfpa/nfpa-overview> (Last visited January 27, 2016).

- Makes or supports studies on any aspect of firefighting employment, education, and training or recruitment.

Curriculum Requirements for Volunteer Firefighters⁶

Volunteer Firefighter training consists of Part I of the State of Florida Minimum Standards Course as required by ch. 633, F.S., and Florida Administrative Codes 69A-37 and 69A-62. A significant portion of this training can be completed through both on-line and practical skill courses. The on-line courses can be taken in lieu of the traditional classroom lecture and satisfies most of the required academic objectives. The following academic components make up the Part I Minimum Standards Curriculum:

- Firefighter I Curriculum – consists of classroom and live fire based core training.
- National Incident Management System - focuses on the history, features, principles and organizational structure of Incident Command.
- Wildland Firefighter Training— curriculum and field exercises that address the basic skills required of all wildland firefighters who must understand the behavior and factors that affect the spread of wildfires.
- EMS First Responder - curriculum that is an introduction to basic life support and emergency care.

Volunteer Firefighters who have successfully completed the Firefighter Part I training are able to operate in the exclusionary or hot zone⁷ and in an Immediately Dangerous to Life or Health environment.

Support Personnel

Other volunteers who do not seek the level of training needed for a Volunteer Firefighters Certificate of Completion may still be members of a Volunteer Fire Department. These volunteers are known as Support Personnel. Support Personnel respond with volunteer firefighters and are part of the Volunteer Fire Department roster. Support Personnel serve a critical role in supporting any emergency response as long as they are always in a safe zone and are performing duties for which they have been “trained commensurate to duty.” They can perform all activities that a fire service provider (Volunteer Fire Department) has trained an individual to perform safely outside the hot zone of an emergency scene, including pulling hoses, opening and closing fire hydrants, driving and operating apparatus, carrying tools, carrying or moving equipment, directing traffic, manning a resource pool, or similar activities. “Trained commensurate to duty” means that the person must have documented training in the specific task assigned or a combination of skills required to accomplish any series of tasks which may be assigned to that individual, given a set of conditions or circumstances that the individual may undertake. Anticipated special circumstances such as hazardous materials operations, technical rescue, and similar conditions or circumstances require additional training.

⁶ Guidelines for the Firefighter Part I Certificate of Completion Program (Volunteer Firefighter), Division of the State Fire Marshal, the Florida State Fire College, Revision 1.7, October 2012.

⁷ s. 633.102(17), F.S., “Hot zone” means the area immediately around an incident where serious threat of harm exists, which includes the collapse zone for a structure fire.

Application

After a candidate has completed the required coursework for a Volunteer Firefighter Certificate of Completion they can apply for such certification from the Division provided that they meet all of the following statutory requirements:⁸

- Be a high school graduate or the equivalent as determined by the division.
- Be at least 18 years of age.
- Not have been convicted of a misdemeanor relating to the certification or to perjury or false statements, or a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country, or dishonorably discharged from any of the Armed Forces of the United States. “Convicted” means a finding of guilt or the acceptance of a plea of guilty or nolo contendere, in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.
- Submit a set of fingerprints to the division with a current processing fee. The fingerprints will be forwarded to the Department of Law Enforcement for state processing and forwarded by the Department of Law Enforcement to the Federal Bureau of Investigation for national processing.
- Have a good moral character as determined by investigation under procedure established by the division.
- Be in good physical condition as determined by a medical examination given by a physician, surgeon, or physician assistant licensed to practice in the state pursuant to ch. 458, F.S.; an osteopathic physician, surgeon, or physician assistant licensed to practice in the state pursuant to ch. 459, F.S.; or an advanced registered nurse practitioner licensed to practice in the state pursuant to chapter 464, F.S. Such examination may include, but need not be limited to, the National Fire Protection Association Standard 1582. A medical examination evidencing good physical condition shall be submitted to the division, on a form as provided by rule, before an individual is eligible for admission into a course under s. 633.408, F.S.
- Be a nonuser of tobacco or tobacco products for at least 1 year immediately preceding application, as evidenced by the sworn affidavit of the applicant.
- Pay an application fee.

III. Effect of Proposed Changes:

The bill creates a volunteer rural firefighter certificate for volunteer firefighters that provide services for a fire service provider located within a municipality with a population less than 12,000 or a county with a population less than 150,000, and are in existence on July 1, 2016, or that were in existence at any time between July 1, 2000, and July 1, 2016, and subsequently reestablished after July 1, 2016.

The bill requires the department to establish by rule training for a volunteer rural firefighter certificate not to exceed 160 hours and required to include emergency medical responder training. By rule any courses successfully completed after July 1, 1970, which were credited towards a certificate under ch. 633, F.S., can be applied toward the required training.

⁸ s. 633.412, F.S.

In order for a volunteer rural firefighter to retain her or his Volunteer Rural Firefighter Certificate of Completion, every 4 years he or she must be active as a volunteer rural firefighter or successfully complete a refresher course consisting of a minimum of 40 hours of training as prescribed by rule.

This act shall take effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals volunteering to work for a fire service provider located within a municipality with a population less than 12,000 or a county with a population less than 150,000 will be able to take fewer hours of training to be certified. This should result in a cost savings from the current requirements of a volunteer firefighter certificate.

C. Government Sector Impact:

The Department of Financial Services will have to adopt by rule the 160 hours of course work needed for a Volunteer Rural Firefighter Certificate of Completion.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 633.102, 633.406, 633.408, 633.414 and 633.416.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Dean

5-00274A-16

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A bill to be entitled

An act relating to volunteer rural firefighting; amending s. 633.102, F.S.; defining the term "volunteer rural firefighter"; amending s. 633.406, F.S.; authorizing the Division of State Fire Marshal within the Department of Financial Services to award a Volunteer Rural Firefighter Certificate of Completion; amending s. 633.408, F.S.; requiring the division to establish by rule courses and course examinations to provide training required to obtain the certificate; providing requirements for the courses for the certificate; requiring the division to award credit for certain approved courses successfully completed by a certain date; amending s. 633.414, F.S.; specifying the requirements for the retention of the certificate; amending s. 633.416, F.S.; revising the circumstances under which a fire service provider may retain the services of a volunteer firefighter; requiring a fire service provider to provide notice to the division regarding a decision to retain or not retain a volunteer rural firefighter; providing an effective date.

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

Section 1. Subsection (36) is added to section 633.102, Florida Statutes, to read:
 633.102 Definitions.—As used in this chapter, the term:
 (36) "Volunteer rural firefighter" means an individual who

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

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holds a current and valid Volunteer Rural Firefighter Certificate of Completion issued by the division under s. 633.408 and provides fire extinguishment or fire prevention services through a fire service provider that:

(a) Is in existence on July 1, 2016, or that was in existence at any time between July 1, 2000, and July 1, 2016, and is subsequently reestablished after July 1, 2016; and

(b) Provides services in a municipality with a population of fewer than 12,000 or a county with a population of fewer than 150,000.

Section 2. Paragraph (h) is added to subsection (1) of section 633.406, Florida Statutes, to read:

633.406 Classes of certification.—

(1) The division may award one or more of the following certificates:

(h) Volunteer Rural Firefighter Certificate of Completion.—
A Volunteer Rural Firefighter Certificate of Completion may be awarded to a person who has satisfactorily completed the training requirements as prescribed by rule for a volunteer rural firefighter.

Section 3. Present paragraph (c) of subsection (1) of section 633.408, Florida Statutes, is redesignated as paragraph (d), a new paragraph (c) is added to that subsection, and subsection (5) of that section is amended, to read:

633.408 Firefighter and volunteer firefighter training and certification.—

(1) The division shall establish by rule:

(c) Courses and course examinations to provide training required to obtain a Volunteer Rural Firefighter Certificate of

Page 2 of 4

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

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59 Completion. The required courses may not exceed 160 hours and
 60 must include emergency medical responder training. The division
 61 shall award credit toward a certificate under this paragraph, as
 62 provided by rule adopted by the division, for any approved
 63 course successfully completed on or after July 1, 1970, which
 64 was creditable at the time of completion toward a certification
 65 under this chapter.

66 (5) The division shall issue:

67 (a) A Volunteer Firefighter Certificate of Completion to
 68 any individual who satisfactorily completes the course
 69 established under paragraph (1) (b).

70 (b) A Volunteer Rural Firefighter Certificate of Completion
 71 to any individual who satisfactorily completes the course
 72 established under paragraph (1) (c).

73 Section 4. Present subsections (3), (4), and (5) of section
 74 633.414, Florida Statutes, are redesignated as subsections (4),
 75 (5), and (6), respectively, a new subsection (3) is added to
 76 that section, and present subsection (4) is amended, to read:

77 633.414 Retention of firefighter certification.—

78 (3) In order for a volunteer rural firefighter to retain
 79 her or his Volunteer Rural Firefighter Certificate of
 80 Completion, every 4 years he or she must:

81 (a) Be active as a volunteer rural firefighter; or

82 (b) Successfully complete a refresher course consisting of
 83 a minimum of 40 hours of training as prescribed by rule.

84 (5)(4) For the purposes of this section, the term "active"
 85 means being employed as a firefighter or providing service as a
 86 volunteer firefighter or volunteer rural firefighter for a
 87 cumulative 6 months within a 4-year period.

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88 Section 5. Subsection (2) and paragraph (a) of subsection
 89 (4) of section 633.416, Florida Statutes, are amended to read:
 90 633.416 Firefighter employment and volunteer firefighter
 91 service; saving clause.—

92 (2) A fire service provider may ~~not~~ retain the services of
 93 an individual volunteering to extinguish fires for the
 94 protection of life or property or to supervise individuals who
 95 perform such services only if:

96 (a) unless The individual holds a current and valid
 97 Volunteer Firefighter Certificate of Completion; or

98 (b) The services will be performed in a municipality with a
 99 population of fewer than 12,000 or a county with a population of
 100 fewer than 150,000 and the individual holds a current and valid
 101 Volunteer Rural Firefighter Certificate of Completion or a
 102 current and valid Volunteer Firefighter Certificate of
 103 Completion.

104
 105 This subsection does not apply to a volunteer who provides only
 106 support services.

107 (4) (a) A fire service provider must notify the division
 108 electronically, as directed by rule by the division, within 10
 109 days after:

110 1. The hiring of a firefighter.

111 2. The retention of a volunteer firefighter or a volunteer
 112 rural firefighter.

113 3. The cessation of employment of a firefighter.

114 4. A decision not to retain a volunteer firefighter or a
 115 volunteer rural firefighter.

116 Section 6. This act shall take effect July 1, 2016.

550



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Community Affairs
Ethics and Elections

SENATOR CHARLES S. DEAN, SR.
5th District

November 16, 2015

The Honorable Lizbeth Benacquisto
326 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Benacquisto,

I respectfully request you place Senate Bill 550, relating to Volunteer Rural Firefighting, on your Banking and Insurance Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 5

Cc: James Knudson, Staff Director

REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 596

INTRODUCER: Banking and Insurance Committee and Senator Hukill

SUBJECT: Assignment or Transfer of Property Insurance Rights

DATE: February 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 596 provides that an agreement that purports to assign or transfer the right to enforce post-loss benefits in a property insurance policy is void. This provision would prevent the assignee from filing an action against the insurance company to enforce payment. This bill does not change current law regarding the right of insured to file an action against the insurance company and does not change current law regarding the rights of those who perform home repairs filing actions against homeowners.

The bill further provides that the assignment agreement is void if:

- It imposes a cancellation fee, a mortgage processing fee, or adds an amount for overhead and profit;
- The final invoice issued under the agreement exceeds the estimated cost for work performed and the increase was not authorized by the insurer;
- It prevents or inhibits an insurer from communicating with the insured at any time; or
- It purports to transfer or create any authority to adjust, negotiate, or settle any portion of a claim to a person not authorized to adjust, negotiate, or settle a claim.

This bill provides that for an assignment agreement to be valid all the following conditions must be met:

- The agreement must authorize a person or entity to be named as a payee or copayee for the benefit of payment for services rendered and materials provided to mitigate or repair covered damage only.

- The agreement must be provided to the insured's property insurer within 3 business days after execution.
- The agreement must allow the insured to cancel the agreement within the later of 3 business days after the agreement is executed or submitted to the insurer. If the assignment agreement is for work resulting from a state of emergency declared by the Governor and is executed within 1 year of the declaration, the insured may cancel the assignment within 5 business days of its execution.
- The agreement must contain an estimate for proposed services and materials to be provided.

The bill provides that an agreement to assign post-loss benefits must contain a specific notice warning the insured that he or she is giving up certain rights and informing the insured of the right to rescind the agreement.

The bill does not apply to property insurance policy provisions relating to liability coverage.

This bill is effective upon becoming a law and its provisions apply to assignments executed after the effective date.

II. Present Situation:

Background on Assignment of Benefits

An assignment is the transfer of the rights of one party under a contract to another party. Current law generally allows an insurance policyholder to assign the benefits of the policy, such as the right to be paid, to another party. Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee can file a lawsuit against the insurer to recover the benefits.

Section 627.422, F.S., governs assignability of insurance contracts and provides that a policy may or may not be assignable according to its terms. In *Lexington Insurance Company v. Simkins Industries*,¹ the court held that a provision in an insurance contract prohibiting assignment was enforceable under the plain language of s. 627.422, F.S. The court explained that the purpose of a provision prohibiting assignment was to protect an insurer against unbargained-for risks.² However, Florida courts have held that an assignment made after the loss is valid even if the contract states otherwise.³ In *Continental Casualty Company v. Ryan Incorporated*,⁴ the court noted that it is a "well-settled rule that [anti-assignment provisions do] not apply to an assignment after loss. A court recently explained that the rationale for post-loss assignments is that "[a]n assignment of the policy, or rights under the policy, before the loss is incurred transfers the insurer's contractual relationship to a party with whom it never intended to contract, but an

¹ 704 So.2d 1384 (Fla. 1998).

² *Id.* at 1386.

³ See *West Florida Grocery Company v. Teutonia Fire Insurance Company*, 77 So. 209 (Fla. 1917); *Better Construction, Inc. v. National Union Fire Insurance Company of Pittsburgh*, 651 So.2d 141 (Fla. 3d DCA 1995)(reversal a dismissal based on a no-assignment provision because "a provision against assignment of an insurance policy does not bar an insured's assignment of an after-loss claim"); *Gisela Investments v. Liberty Mutual Ins. Co.*, 452 So.2d 1056 (Fla. 3d DCA 1984) (holding that a "provision in a policy of insurance which prohibits assignment thereof except with consent of the insurer does not apply to prevent assignment of the claim or interest in the insurance money then due, after loss").

⁴ 974 So.2d 368, 377 n. 7 (Fla. 2000).

assignment after loss is simply the transfer of the right to a claim for money” and “has no effect upon the insurer's duty under the policy.”⁵

Assignments have been prohibited by contract in other insurance contexts. In *Kohl v. Blue Cross Blue Shield of Florida, Inc.*,⁶ the court found anti-assignment language was sufficiently clear and upheld language prohibiting the assignment of a health insurance claim. The court explained that anti-assignment clauses “prohibiting an insured's assignments to out-of-network medical providers are valuable tools in persuading health [care] providers to keep their costs down and as such override the general policy favoring the free alienability of choses in action.”⁷

Section 627.428, F.S., provides, in part:

Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had.

This statute allows the insured to recover attorney's fees if the insured prevails in an action against an insurer. A person who takes an assignment of benefits is entitled to attorney's fees if that assignee prevails in an action against an insurer.⁸

Assignment of Benefits in Property Insurance Cases

In recent years, insurers have complained of abuse of the assignment of benefits process. An insurance company recently described the issue in a court filing:

The typical scenario surrounding the use of an “assignment of benefits” involved vendors and contractors, mostly water remediation companies, who were called by an insured immediately after a loss to perform emergency remediation services, such as water extraction. The vendor came to the insured's home and, before performing any work, required the insured to sign an “assignment of benefits” – when the insured would be most vulnerable to fraud and price-gouging. Vendors advised the insured, “We'll take care of everything for you.” The vendor then submitted its bill to the insurer that was, on average, nearly 30 percent higher than comparative estimates from vendors without an assignment of benefits. Some vendors added to the invoice an additional 20 percent for “overhead and profit,” even though a general contractor would not be required or hired to oversee the work. Vendors used these inflated invoices to extract higher

⁵ *Wehr Constructors, Inc. v. Assurance Company of America*, 384 S.W.3d 680, 683 (Ky. 2012).

⁶ 955 So.2d 1140 (Fla. 4th DCA 2007).

⁷ *Id.* at 1144-1145.

⁸ See *All Ways Reliable Bldg. Maint., Inc. v. Moore*, 261 So.2d 131 (Fla. 1972); *Allstate Insurance Co. v. Regar*, 942 So.2d 969 (Fla.2d DCA 2006).

settlements from insurers. This, in turn, significantly increases litigation over the vendors' invoices.⁹

In a court filing in a different case, a company that provides emergency repair and construction services explained the rationale behind assignments of insurance benefits:

As a practical matter, a homeowner often will not be able to afford or hire a contractor immediately following a loss unless the contractor accepts an assignment of benefits to ensure payment. A homeowner may be unable to comply with the... provision requiring the homeowner to protect and repair the premises unless the remediation contractor accepts an assignment of benefits, however, contractors will become unwilling to accept payments by assignment if court decisions render the assignments unenforceable...

Whether the repair invoice is routed through the insured or submitted by the service provider directly by assignment, the service provider's repair invoice is submitted to the insurer for coverage and reviewed by an adjuster. The only difference an assignment makes is that, if an insurance company wishes to partially deny coverage or contest an invoice as unreasonable, the insured policyholder is not mired in litigation in which he or she has no stake.¹⁰

It is argued that in most cases, assignment of benefits works to the homeowner's advantage because the contractor is in a better position than most homeowners to discuss costs and repair requirements with insurance adjusters.¹¹

Proponents of changing the law relating to assignment of benefits argue that the ability to recover attorney's fees under s. 627.428, F.S., leads to more litigation in cases involving assignment of benefits because an assignee can recover full attorney's fees even if the award is small.¹² However, courts have explained that the purpose of s. 627.428, F.S., is to encourage the prompt payment of valid claims and place the insured in the same position he or she would have been had the insurer paid the claim.¹³

Recent Litigation in Cases Involving Assignment of Benefits

Several recent cases have addressed the assignment of post-loss benefits. In *Accident Cleaners, Inc. v. Universal Ins. Co.*,¹⁴ the Fifth District Court of Appeal rejected a claim that s. 627.405, F.S., provided that only a person with an insurable interest at the time of loss could enforce an

⁹ See *Security First Insurance Company v. State of Florida, Office of Insurance Regulation*, Case 1D14-1864 (Fla. 1st DCA), Appellant's Initial Brief at pp. 3-4. (appellate record citations omitted).

¹⁰ See *One Call Property Services, Inc. v. Security First Insurance Company*, Case No. 4D14-0424 (Fla. 4th DCA), Appellant's Initial Brief at 46-48.

¹¹ Memorandum to Members of the House Insurance and Banking Subcommittee from Dale S. Dobuler, Florida Justice Association (October 26, 2015) (on file with the Banking and Insurance Committee).

¹² See Florida Justice Reform Institute, White Paper: *Restoring Balance in Insurance Litigation*, (2015) at pp. 9-10. (on file with the Banking and Insurance Committee).

¹³ See e.g. *Travelers Indemnity Insurance Company of Illinois v Meadows MRI, LLP*, 900 So.2d 676, 678-679 (Fla. 4th DCA 2005).

¹⁴ Case No. 5D14-352 (5th DCA April 10, 2015).

insurance contract and held that the right to recover post-loss insurance benefits could be assigned. The court explained that nothing in the statute indicated the Legislature intended to change the “well-settled” law of assignability of contractual rights” or the “inability of insurers to restrict post-loss assignments.”

In *One Call Property Services, Inc. v. Security First Ins. Co.*,¹⁵ the Fourth District Court of Appeal explained that even “when an insurance policy contains a provision barring assignment of a policy, an insured may assign a post-loss claim.” The court rejected arguments that the insured had nothing to assign at the time the assignment was executed because benefits were not yet due under the policy.¹⁶

The court explained the competing policy arguments raised by the assignment of benefits issue:

Turning to the practical implications of this case, we note that this issue boils down to two competing public policy considerations. On the one side, the insurance industry argues that assignments of benefits allow contractors to unilaterally set the value of a claim and demand payment for fraudulent or inflated invoices. On the other side, contractors argue that assignments of benefits allow homeowners to hire contractors for emergency repairs immediately after a loss, particularly in situations where the homeowners cannot afford to pay the contractors up front.¹⁷

The court noted that if “studies show that these assignments are inviting fraud and abuse, then the legislature is in the best position to investigate and undertake comprehensive reform.”¹⁸

In *Security First Ins. Co. v. State of Florida, Office of Ins. Regulation*,¹⁹ an insurer sought approval from the Office of Insurance Regulation to amend its policy forms to prohibit assignment unless the insurer agreed to the assignment. The Office of Insurance Regulation disapproved the form filing based on Florida court cases holding post-loss benefits are freely assignable.²⁰ The First District Court of Appeal affirmed the Office of Insurance Regulation’s order but noted evidence of abuse of the assignment of benefit process.²¹ The court concluded “it is for the legislative branch to consider this public policy problem” and noted that “legislative review provides a more detailed inquiry into the current situation in the industry and greater flexibility in achieving meaningful reform, if deemed necessary.”²²

In *One Call Property Services, Inc., A/A/O Carl and June Schlanger v. St. Johns Insurance Company*,²³ the circuit court granted summary judgment in an assignment of benefits case. A homeowner executed an assignment of benefits to One Call Property Services (One Call) after a

¹⁵ 165 So.3d 749, 753 (4th DCA 2015).

¹⁶ *Id.* at 754.

¹⁷ *Id.* at 755.

¹⁸ *Id.*

¹⁹ 177 So.3d 627 (Fla. 1st DCA 2015).

²⁰ *Id.* at 628.

²¹ *Id.*

²² *Id.* at 630.

²³ Case No. 13-000868-CA (Fla. 19th Circuit November 20, 2014).

water loss. When the insurer did not pay the amount demanded, One Call sued for breach of contract. The court ruled that One Call did not have standing to bring the action and granted the insurer's motion for summary judgment. The court explained that the "proceeds of any insurance recovery from homestead property are constitutionally protected to the same extent as the property itself, and a homeowner cannot be divested of those proceeds through an unsecured agreement" and ruled that the assignment was invalid. The court held the assignment of benefits "impermissibly seeks to divest the homeowners of these constitutionally protected insurance proceeds and, therefore, the assignment is invalid." The court said this was "particularly true where, as here, the contract was [only executed by one spouse]." The court further ruled that One Call was unlawfully acting as a public adjuster.

One Call appealed the case in the Fourth District Court of Appeal. In the briefs, the parties argued whether the provision of the state constitution prohibiting the forced sale of a homestead²⁴ prohibited the assignment of insurance proceeds. The briefs also addressed whether both spouses were required to agree to the assignment and whether One Call was unlawfully acting as a public adjuster. The court affirmed without issuing a written opinion²⁵ so the exact reasoning behind the court's affirmance is not known.²⁶ The opinion is not final until the disposition of any motion for rehearing.²⁷

There are at least three other cases pending the district courts of appeal relating to assignment of benefits in water mitigation cases.²⁸ In one of the cases, both the homeowner and the assignee filed suit against the insurer. The trial court granted the insurer's motion for summary judgment after finding that the homeowner never intended to assign her right to sue the insurance company. In other cases, there are disputes over whether the assignee unlawfully acted as a public adjuster, whether the assignment is prohibited under Article X, s. 4, Fla. Const., and whether the assignment at issue is an invalid partial assignment. There is no timetable for the courts to decide these pending cases.

Data Provided by Insurers

On October 6, 2015, the Insurance Consumer Advocate issued a data call to gather information relating to assignment of benefits. On October 23, 2015, the Office of Insurance Regulation issued a data call to gather information from insurance companies relating to assignment of benefits and its relationship to property insurance rates. Most insurers did not respond to the Insurance Consumer Advocate data call due to concerns about disclosure of trade secrets. Insurance companies submitted information to the Office of Insurance Regulation during December and January. The office is currently reviewing the information submitted.

²⁴ Article X, s. 4, Fla. Const.

²⁵ Case No. 4D14-4585 (Fla. 4th DCA January 28, 2016).

²⁶ In Florida appellate courts, most cases are decided with a "per curiam affirmed" opinion. Such an opinion is binding on the parties to the litigation but is not binding precedent for other cases. See *Department of Legal Affairs v. District Court of Appeal, 5th District*, 434 So.2d 310 (Fla. 1983).

²⁷ Motions for rehearing must be filed within 15 days of the opinion unless another time is set by the court.

²⁸ *Bioscience West, Inc. v. Gulfstream Property & Casualty Insurance Co.*, Case No. 2D14-3946 (Fla. 2d DCA) (briefs have been filed; oral argument was held August 18, 2015); *Start to Finish Restoration, LLC v. Homeowners Choice Property & Casualty Insurance*, Case No. 2D15-2206 (Fla. 2d DCA) (briefs have been filed; oral argument set for February 24, 2016); *Restoration 1 CFL a/a/o I. Joy White v. State Farm Florida Insurance Company*, Case No. 5D15-1049 (Fla. 5th DCA) (briefs have been filed; oral argument set for April 5, 2016).

Citizens Property Insurance Corporation (“Citizens”) provided a summary of information it provided in response to the OIR data call. Citizens randomly sampled 983 claims reported in 2015 that were settled without a lawsuit being filed. The statewide average that Citizens paid for the loss and loss adjustment expense was \$15,822 if the claim had an assignment of benefits but \$8,507 if the claim did not have an assignment of benefits. If a lawsuit was filed, Citizens paid an average of \$37,677 per claim if the claim had an assignment of benefits and \$30,526 if the claim did not. In South Florida (Miami-Dade, Broward, and Palm Beach counties), the percentage of claims litigated increased from 15.8 percent in 2010 to 38.4 percent in 2014. Citizens also reported that 31.9 percent of its claimants had representation either by an attorney or public adjuster at the first notice of loss in 2014. That percentage increased to 45.6 percent through the first 9 months of 2015.

III. Effect of Proposed Changes:

This bill creates a new section of law to provide that an agreement that purports to assign or transfer the right to enforce post-loss benefits in a property insurance policy is void. This provision would prevent the assignee from filing an action against the insurance company to enforce payment. Since the assignee could not file an action to enforce payment, the assignee could not collect attorney’s fees under s. 627.428, F.S. This bill does not change current law regarding the right of insured to file an action against the insurance company and does not change current law regarding the rights of those who perform home repairs filing actions against homeowners.

This bill requires that all of the following conditions must be met for an assignment agreement to be valid:

- The agreement must authorize a person or entity to be named as a payee or copayee for the benefit of payment as provided in the policy for services rendered and materials provided to mitigate or repair covered damage only.
- The agreement must be provided to the insured’s property insurer within 3 business days after execution.
- The agreement must contain an estimate for proposed services and materials to be provided.
- The agreement must allow the insured to cancel the agreement within 3 business days²⁹ after the agreement is executed or submitted to the insurer, whichever is later. The assignee is entitled to be reimbursed for work already performed before cancellation of the agreement.

In addition to providing that an agreement that purports to transfer the right to enforce payment is void, the bill provides that an agreement is void if any of the following conditions are met:

- The agreement imposes an agreement cancellation fee, a mortgage processing fee, or adds an amount for overhead and profit. This addresses concerns that some vendors are inflating the costs and overcharging consumers.³⁰
- The final invoice issued under the agreement exceeds the estimated cost for work performed and the increase was not authorized by the insurer.

²⁹ The bill extends this period to 5 days if the agreement is executed to perform work resulting from an event for which the Governor has declared a state of emergency and is within 1 year of the declaration.

³⁰ See Florida’s Assignment of Benefits Problem prepared by American Strategic Insurance (on file with the Banking and Insurance Committee). It provides examples of charges for mortgage processing fees ranging from \$300-\$1,500, examples of charges of 10 percent of the total bill for “overhead” and “profit,” and cancellation charges of 15 percent to 30 percent.

- The agreement prevents or inhibits an insurer from communicating with the insured at any time. This addresses the problem, reported by some insurers, that assignees are preventing insureds from discussing the claim with the insurance company.
- The agreement purports to transfer or create any authority to adjust, negotiate, or settle any portion of a claim to a person not authorized to adjust, negotiate, or settle a claim under part VI of ch. 626, F.S. This provision prevents a person not licensed as an insurance adjuster from acting as an adjuster.

The agreement must contain the following notice, in 14-point type:

WARNING: YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY TO A THIRD PARTY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT WITHOUT PENALTY WITHIN 3 BUSINESS DAYS AFTER THE DATE THIS AGREEMENT IS EXECUTED OR WITHIN 3 BUSINESS DAYS AFTER YOUR PROPERTY INSURANCE COMPANY HAS RECEIVED A COPY OF THIS AGREEMENT, WHICHEVER IS LATER. IF WORK IS BEING PERFORMED AS A RESULT OF DAMAGES CAUSED BY AN EVENT FOR WHICH THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY AND IS WITHIN 1 YEAR AFTER SUCH DECLARATION, YOU HAVE 5 DAYS AFTER THE DATE OF EXECUTION TO CANCEL. THIS AGREEMENT DOES NOT CHANGE YOUR DUTIES UNDER YOUR PROPERTY INSURANCE POLICY, SUCH AS PROMPTLY NOTIFYING YOUR INSURANCE COMPANY OF A LOSS AND MITIGATING YOUR PROPERTY FROM FURTHER DAMAGE.

The bill does not apply to a power of attorney granted to a management company, family member, guardian, or similarly situated person which may include the authority to act in place of the principal on property insurance claims. The bill also does not apply to assignments relating to liability coverage in the property insurance policy.

This bill is effective upon becoming a law and its provisions apply to assignments executed after the effective date. The provisions do not apply to agreements entered into before the bill's effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:**Access to Courts**

The bill provides that any assignment that purports to transfer the right to enforce payment for post-loss benefits is void. It could argue that the effect of this bill is to remove the right for an assignee to sue for breach of the insurance contract. The Florida Supreme Court addressed the ability to limit an assignee's access to courts in *Nationwide Mut. Fire Ins. Co. v. Pinnacle Medical Inc.*³¹ In that case, Pinnacle, a medical provider, provided medical services to a person injured in an automobile accident. The injured person assigned his rights to receive benefits to Pinnacle. When the insurer refused to pay, Pinnacle, as assignee, brought suit against the insurer for breach of contract. A statute required that a medical provider who had accepted an assignment of benefits must submit to binding arbitration so the insurer argued that Pinnacle could not bring the action.³²

The court held that the statute prohibiting an assignee from bringing an action to enforce payment violated the Access to Courts³³ provision of the state constitution. The court explained that the right of an assignee to sue for breach of contract to enforce assigned rights predates the Florida Constitution. If a right to seek redress in the courts predates the Florida Constitution, the Legislature cannot abolish that right without providing a reasonable alternative or commensurate benefit unless the Legislature can show an overpowering public necessity for its abolishment and no alternative means of meeting the public necessity.³⁴

However, it could be argued that the bill is not impairing access to courts and is a statute restricting assignments. "Generally, causes of action derived from a contract are assignable and contract rights can be assigned unless forbidden by the terms of the contract itself, or unless the assignment would violate some rule of public policy or some statute, or the contract rights involve obligations of a personal nature."³⁵ Since statutes or public policy are valid reasons for limiting or prohibiting assignments and this bill declares an assignment "void" if it purports to transfer the right to enforce, it can be argued that there is no impairment of access to courts and that the bill is an example of the Legislature declaring by statute the public policy of this state relating to the assignment of benefits of property insurance contracts.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

³¹ 753 So.2d 55 (2000).

³² *Id.* at 56.

³³ Art. 1, s. 21, Fla. Const.

³⁴ See *Pinnacle Medical*, 753 So.2d at 57; *Kluger v. White*, 281 So.2d 1, 4 (Fla. 1973); *Smith v. Department of Insurance*, 507 So.2d 1080, 1088 (Fla. 1987).

³⁵ 3A Fla.Jur.2d Assignments s. 6; Restatement 2d Contracts 317. See *Kohl v. Blue Cross and Blue Shield of Florida*, 955 So.2d 1140, 1143 (Fla. 4th DCA 2007) (upholding language prohibiting assignments to out of network medical providers).

B. Private Sector Impact:

The data provided by Citizens Property Insurance Company indicates that the bill may be effective in lowering property insurance claim costs that are currently associated with an executed post-loss assignment of benefits.

C. Government Sector Impact:

Indeterminate. It is not known whether the changes in this bill will reduce litigation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 627.70133 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Banking and Insurance on February 1, 2016:**

The CS removed a provision that limited the assignment to \$2,500.

B. Amendments:

None.



415826

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 32 - 49
and insert:

(b) It is provided to the insured's property insurer within
3 business days after execution;

(c) It contains an estimate for proposed services and
materials to be provided;

(d) With the exception of reimbursement for work already
performed to mitigate or repair covered damage, it allows the



415826

11 insured to cancel the agreement, in writing, without penalty or
12 obligation within 3 business days after the date the agreement
13 is executed or within 3 business days after the insurer has been
14 provided with the agreement, whichever is later. However, if the
15 agreement is executed to perform work resulting from an event
16 for which the Governor has declared a state of emergency and is
17 within 1 year after such declaration, the insured has 5 business
18 days after the date the agreement is executed to cancel the
19 agreement without penalty; and

20 (e) It contains the following notice in 14-point type:



751400

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 72 - 76
and insert:

(c) It prevents or inhibits an insurer from communicating with the insured at any time; or

(d) It purports to transfer or create any authority to

By Senator Hukill

8-00473C-16

2016596__

A bill to be entitled

An act relating to assignment or transfer of property insurance rights; creating s. 627.70133, F.S.; providing requirements under a property insurance policy for the post-loss assignment or transfer of rights, benefits, or policy provisions not related to liability coverage; providing requirements for an agreement to assign or transfer such rights, benefits, or policy provisions; providing prohibitions and conditions that void such an agreement; providing applicability; providing an effective date.

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

Section 1. Section 627.70133, Florida Statutes, is created to read:

627.70133 Assignment of benefits or transfer of rights.—As to property insurance policies, this section governs the post-loss assignment or transfer of rights, benefits, or policy provisions unrelated to liability coverage to a person or entity other than the named insured. This section does not affect the post-loss assignment or transfer of rights, benefits, or other policy provisions related to liability coverage in the property insurance policy.

(1) An agreement entered into under this section to assign or transfer rights, benefits, or policy provisions is not valid unless:

(a) It authorizes a person or entity to be named as a payee or copayee for the benefit of payment as provided in the policy

Page 1 of 4

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

8-00473C-16

2016596__

for services rendered and materials provided to mitigate or repair covered damage only;

(b) It is limited to \$2,500 per occurrence for work performed to mitigate or repair covered damage;

(c) It is provided to the insured's property insurer within 3 business days after execution;

(d) It contains an estimate for proposed services and materials to be provided;

(e) With the exception of reimbursement for work already performed to mitigate or repair covered damage, it allows the insured to cancel the agreement, in writing, without penalty or obligation within 3 business days after the date the agreement is executed or within 3 business days after the insurer has been provided with the agreement, whichever is later. However, if the agreement is executed to perform work resulting from an event for which the Governor has declared a state of emergency and is within 1 year after such declaration, the insured has 5 business days after the date the agreement is executed to cancel the agreement without penalty; and

(f) It contains the following notice in 14-point type:
WARNING: YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY TO A THIRD PARTY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT WITHOUT PENALTY WITHIN 3 BUSINESS DAYS AFTER THE DATE THIS AGREEMENT IS EXECUTED OR WITHIN 3 BUSINESS DAYS AFTER YOUR PROPERTY INSURANCE COMPANY HAS RECEIVED A COPY OF THIS AGREEMENT, WHICHEVER IS LATER. IF WORK IS BEING PERFORMED AS A RESULT OF DAMAGES CAUSED BY AN EVENT FOR WHICH THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY AND IS WITHIN 1

Page 2 of 4

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

8-00473C-16

2016596__

59 YEAR AFTER SUCH DECLARATION, YOU HAVE 5 DAYS AFTER THE DATE OF
 60 EXECUTION TO CANCEL. THIS AGREEMENT DOES NOT CHANGE YOUR DUTIES
 61 UNDER YOUR PROPERTY INSURANCE POLICY, SUCH AS PROMPTLY NOTIFYING
 62 YOUR INSURANCE COMPANY OF A LOSS AND MITIGATING YOUR PROPERTY
 63 FROM FURTHER DAMAGE.

64 (2) An agreement is void if:

65 (a) It imposes an agreement cancellation fee, a check
 66 processing fee, or a mortgage processing fee or adds an amount
 67 for overhead and profit to the amount for mitigation and repair
 68 of covered property;

69 (b) A final invoice issued under the agreement exceeds the
 70 estimated cost for work performed and the increase in cost was
 71 not authorized by the insurer;

72 (c) It purports to assign or transfer the right to enforce
 73 payment for post-loss benefits in the policy;

74 (d) It prevents or inhibits an insurer from communicating
 75 with the insured at any time; or

76 (e) It purports to transfer or create any authority to
 77 adjust, negotiate, or settle any portion of a claim to a person
 78 or entity who is not authorized to adjust, negotiate, or settle
 79 a claim on behalf of the insured or claimant under part VI of
 80 chapter 626.

81 (3) This section does not apply to a power of attorney
 82 granted to a management company, family member, guardian, or
 83 similarly situated person which complies with chapter 709 and
 84 which may include, as part of the authority granted, the
 85 authority to act in place of a principal as it relates to a
 86 property insurance claim.

87 Section 2. This act applies to post-loss assignments or

Page 3 of 4

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

8-00473C-16

2016596__

88 transfers of rights, benefits, or policy provisions not related
 89 to liability coverage which are executed after the effective
 90 date of this act.

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

Page 4 of 4

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

November 4, 2015

The Honorable Lizbeth Benacquisto
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 596 – Assignment or Transfer of Property Insurance Rights

Dear Chairwoman Benacquisto:

Senate Bill 596, relating Assignment or Transfer of Property Insurance Rights has been referred to the Banking and Insurance Committee. I am requesting your consideration on placing SB 596 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: James Knudson, Staff Director of the Banking and Insurance Committee
Sheri Green, Administrative Assistant of the Banking and Insurance Committee

REPLY TO:

- 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

596

Bill Number (if applicable)

Topic AOB

Amendment Barcode (if applicable)

Name Kim Driggers

Job Title Lawyer

Address 3770 Piney Grove DR

Phone 850.597.1355

Street

Tallahassee, FL 32311

Email kdriggers@driggers-law.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

SB 596

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Gerald Wester

Job Title _____

Address 101 E College Av

Street

Phone 850 445 7256

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing American INS Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

SB 596

Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name Tammy Perdue

Job Title Gen Counsel

Address Street

Phone

City

State

Zip

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing AIF

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

Topic Assignment of Benefits SB 596

Amendment Barcode (if applicable)

Name Sandra Starnes

Job Title Director, Property + Casualty Product Review

Address 200 E. Gaines St.

Phone 850-413-5344

Street

Tallahassee

FL

32399

City

State

Zip

Email sandra.starnes@floridair.com

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Office of Insurance Regulation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/11/2014
Meeting Date

596
Bill Number (if applicable)

W/D

751400
Amendment Barcode (if applicable)

Topic

Name Gary S. Mead Jr.

Job Title President

Address 519 Providence Blvd
Street

Phone (321) 225-1800

Deltona, FL 32725
City State Zip

Email gary-mead1971@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

751400

Amendment Barcode (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Name Jeffrey N. Grant

Job Title Business Owner

Address 1285 Smoke Rise Lane

Phone 859-878-6469

Tallahassee FL 32317

City State Zip

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Bone Dry Restoration and Cleaning Inc.

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

751400

Amendment Barcode (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Name Foyt Ralston

Job Title _____

Address 101 North Monroe Street, Suite 900

Phone 850-222-8611

Street

Tallahassee

FL

32301

Email fralston@bmolaw.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Restoration Specialist

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

751400

Amendment Barcode (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Name Stephanie Ellen Vaughan

Job Title domestic engineer / PhD

Address 8997 Glen Eagle

Street

Tallahassee

City

FL

State

32312

Zip

Phone 850-728-2907

Email Sallisonel@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

SB596

Bill Number (if applicable)

75/400

Amendment Barcode (if applicable)

Topic _____

Name Brian Christensen

Job Title Owner Restoration 1 CFL

Address 2202 Hoffman Ave

Street

Orlando

City

FL

State

32809

Zip

Phone 407 516-7277

Email Restoration1CFL@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-16

Meeting Date

596

Bill Number (if applicable)

751408

Amendment Barcode (if applicable)

Topic Amendment regarding enforcement / AOB

Name Stephen Oakley

Job Title Attorney

Address 2876 South Osceola Ave.
Street

Phone 407-425-4640

Orlando FL 32801
City State Zip

Email Steve@hijlegal.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida's Homeowners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

415826

Amendment Barcode (if applicable)

Topic Property Insurance Rights-Amendment

Name Daniel Denavit

Job Title Owner

Address 121 S-Orange Ave

Street

City Orlando State FL Zip 32801

Phone 407-800-1224

Email AHSCF.Dan@gmail.com

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing AHS Construction

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

415826

Amendment Barcode (if applicable)

Topic Property Insurance Rights-Amendment

Name Kindell Parker

Job Title Operations Manager, United Water Restoration

Address 1259 Granada Blvd. #202

Street

Ormond Beach

City

FL

State

32174

Zip

Phone 386-492-6904

Email kindellp@unitedwaterrestoration.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Water Restoration

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

415826

Amendment Barcode (if applicable)

Topic Property Insurance Rights-Amendment

Name James Loy

Job Title president, Alpha Claims Adjusting

Address 1800 Pembroke Dr. Phone _____

Street

Orlando

FL

32810

City

State

Zip

Email info@alphaclaimsadjusting.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

SB594

Bill Number (if applicable)

415826

Amendment Barcode (if applicable)

Topic _____

Name Brian Christensen

Job Title Owner Restoration 1 CFL

Address 2202 Hoffman Ave

Street

Orlando

City

FL

State

32805

Zip

Phone 407 516-7277

Email Restoration1CFL@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

596
Bill Number (if applicable)

#415826
Amendment Barcode (if applicable)

by Sen. CLEMENS

Topic AOB

Name Kim DRIGGERS

Job Title Lawyer

Address 3770 Piney Grove AR

Tallahassee, FL 32311
City State Zip

Phone 850.597.1355

Email kdriggers@kdriggers-law.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016
Meeting Date

596
Bill Number (if applicable)

415826
Amendment Barcode (if applicable)

Topic [REDACTED]

Name Gary S. Mead Jr.

Job Title President

Address 519 Providence Blvd
Street

Phone (321) 225-1800

Deltona, FL 32725
City State Zip

Email gary-mead1971@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

415826

Amendment Barcode (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Name Jeffrey N. Grant

Job Title Business Owner

Address 1285 Smoke Rise Lane

Phone 850-878-6469

Tallahassee FL 32317
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Bone Dry Restoration and Cleaning Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

415826

Amendment Barcode (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Name Foyt Ralston

Job Title _____

Address 101 North Monroe Street, Suite 900

Phone 850-222-8611

Street

Tallahassee

FL

32301

Email fralston@bmolaw.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Restoration Specialist

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

415826

Amendment Barcode (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Name Stephanie Ellen Vaughn

Job Title domestic engineer / PhD candidate

Address 8997 Glen Eagle Way

Phone 850-728-2907

Street

Tallahassee, FL

32312

Email ballisone1@aol.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

415826

Amendment Barcode (if applicable)

Topic Property Insurance Rights-Amendment

Name Richie Kidwell

Job Title Owner, Air Quality Assessors

Address 941 W. Morse Blvd.

Street

Phone 407-233-0493

Winter Park

FL

32789

Email richie@airqualityassessors.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-16

Meeting Date

596

Bill Number (if applicable)

Topic AOB

Amendment Barcode (if applicable)

Name Jason Lamoureux - Holland & Lamoureux, P.A.

Job Title Attorney

Address 611 S. Kings Ave

Phone 813-655-9069

Brandon FL 33511

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

Topic Property Insurance Rights

Amendment Barcode (if applicable)

Name Richie Kidwell

Job Title Owner, Air Quality Assessors

Address 941 W. Morse Blvd.

Phone 407-233-0493

Street

Winter Park FL 32789

Email richie@airqualityassessors.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/11/16

Meeting Date

SB 596

Bill Number (if applicable)

Topic AOB

Amendment Barcode (if applicable)

Name Gary Guzzo

Job Title Lobbyist

Address 108 S. Monroe St Suite 200

Phone 850-681-0024

Street

Tallahassee

Fla

32301

City

State

Zip

Email gguzzo@flapartners.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Insurance Council,

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2014

Meeting Date

SB 594

Bill Number (if applicable)

Topic ASSIGNMENT OF INSURANCE BENEFITS

Amendment Barcode (if applicable)

Name CHRISTIAN CANARA

Job Title STATE DIRECTOR

Address PO Box 10577

Phone (305) 608-4300

Street

TALLAHASSEE FL 32301

Email CCANARA@RSTREET.ORG

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing R STREET INSTITUTE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-16

Meeting Date

596

Bill Number (if applicable)

Topic Bill - Assignment of Benefits

Amendment Barcode (if applicable)

Name Stephen Oakley

Job Title Attorney

Address 2876 South Osceola Ave.

Phone 407-425-4640

Street

Orlando

FL

32806

Email stue@hijlegal.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida's homeowners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/14

Meeting Date

594

Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 134 S Bronaugh St

Phone 850-521-1235

Street

Tallahassee

City

FL

State

32301

Zip

Email cjohnson@flchamber.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/14

Meeting Date

596

Bill Number (if applicable)

Topic Post Loss Assignment of Benefits

Amendment Barcode (if applicable)

Name Christine Ashburn

Job Title VP-legislative affairs

Address 2312 Killbuck Center Blvd

Phone 850-513-3744

Street

Tallahassee FL

32309

Email christine.ashburn@citizenofla.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Citizens Property Insurance Corp

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

Topic Property Insurance Rights-Amendment

Amendment Barcode (if applicable)

Name Daniel Dehanit

Job Title Owner

Address 121 S. Orange Ave.

Phone 407-800-1224

Street

City Orlando

State FL

Zip 32801

Email AHSCF.Dane@gmail.com

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing United Water Restoration

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

Topic Property Insurance Rights-Amendment

Amendment Barcode (if applicable)

Name James Loy

Job Title President, Alpha Claims Adjusting

Address 1800 Pembroke Dr Ste-300 Phone 407-440-0505

Street

Orlando

City

FL

State

32810

Zip

Email info@alphacclaimsadjusting.com

Speaking: [] For [x] Against [] Information

Waive Speaking: [] In Support [x] Against (The Chair will read this information into the record.)

Representing ~~Unit 1111~~ Alpha Claims Adjusting

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

Topic Property Insurance Rights

Amendment Barcode (if applicable)

Name Kindell Parker

Job Title Operations Manager, United Water Restoration

Address 1259 W. Granada Blvd. #202

Phone 386-492-6904

Street

Ormond Beach

FL

32174

Email kindellp@unitedwaterrestoration.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Water Restoration

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 596

Bill Number (if applicable)

Topic Property Insurance Rights

Amendment Barcode (if applicable)

Name Zoltan Kurucz

Job Title Managing Partner, United Water Restoration

Address 1259 W. Granada Blvd. #202

Phone 386-487-4866

Street

Ormond Beach

FL

32174

Email zoltank@unitedwaterrestoration.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Water Restoration

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

SB 596

Bill Number (if applicable)

~~XXXXXXXXXX~~

Amendment Barcode (if applicable)

Topic HoKill

Name Brian Christensen

Job Title Owner Restoration 1 CFL

Address 2202 Hoffer Ave

Street

Orlando FL 32805

City

State

Zip

Phone 407 316-7277

Email Restoration1CFL@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Amendment Barcode (if applicable)

Name Foyt Ralston

Job Title _____

Address 101 North Monroe Street, Suite 900

Phone 850-222-8611

Street

Tallahassee

FL

32301

Email fralston@bmolaw.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Restoration Specialist

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Amendment Barcode (if applicable)

Name Stephanie Eller Vaughn

Job Title Domestic Engineer

Address ~~Tallahassee~~ 8997 Glen Eagle Way

Phone 850-728-2907

Tallahassee, FL 32312
Street City State Zip

Email Sallisonel@

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

Sen. Hukill

596

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

FEB 1st

Meeting Date

Bill Number (if applicable)

Topic ASSIGNMENT OF BENEFITS

Amendment Barcode (if applicable)

Name Reggie Garcia

Job Title

Address PO Box 11069

Phone 933-7150

Street

Tallahassee

FLA

32302

Email reggie.garcia.law@icloud.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing The Florida Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 1, 2016

Meeting Date

596

Bill Number (if applicable)

Topic AOB REFORM

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title _____

Address 301 EAST PARK AVENUE
Street

Phone _____

TALLAHASSEE FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing PROFESSIONAL INSURANCE AGENTS OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

596

Bill Number (if applicable)

Topic Assignment or Transfer of Property Insurance Rights

Amendment Barcode (if applicable)

Name Jeffrey N. Grant

Job Title Business Owner

Address 1285 Smoke Rise Lane

Phone 850 878-6169

Street
Tallahassee
City

FL

State

32317

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Bone Dry Restoration and Cleaning Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-14

Meeting Date

596

Bill Number (if applicable)

Topic Assign of Benefits/ Transfer of Prop Rights

Amendment Barcode (if applicable)

Name LISA Miller

Job Title CEO, Lisa Miller Associates

Address 331 N Monroe St

Phone 850 528 9229

Tallahassee FL 32301

Email lisamiller@lisamillerassociates.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Consumers Lillian + Jim Hettrich, Clermont Florida

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/10

596

Meeting Date

Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name MICHAEL CARLSON

Job Title EXECUTIVE DIRECTOR

Address 215 S. Monroe Ste. 835

Phone 597-7425

Street

City T-11 State FL Zip 32301

Email Michael.Carlson@PIFF.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing PERSONAL INSURANCE FEDERATION OF FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/1/16
Meeting Date

596
Bill Number (if applicable)

Topic A O B

Amendment Barcode (if applicable)

Name Jennifer West

Job Title Executive Director

Address PO Box 14956
Street

Phone 850-933-8514

Tallahassee FL 32317
City State Zip

Email jwest@consumerfederation
se.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Consumer Federation of the Southeast

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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2-1-16
Meeting Date

SB 596
Bill Number (if applicable)

Topic INSURANCE

Amendment Barcode (if applicable)

Name CAM FENTRISS

Job Title LEG. COUNSEL

Address 1400 VILLAGE SQUARE #3243

Phone 850-222-2772

JAL FL 32312
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLA. ROOFING & SHEET METAL CONTRACTORS ASSN

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/11/16
Meeting Date

596
Bill Number (if applicable)

Topic AOB

Amendment Barcode (if applicable)

Name Carlton Murray

Job Title Director of Government Affairs

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Office of Insurance Regulation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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 780

INTRODUCER: Senator Garcia

SUBJECT: Provision of Pharmaceutical Services

DATE: January 29, 2016

REVISED: 2/1/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Favorable</u>
2.	<u> </u>	<u> </u>	<u>GO</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 780 prohibits an insurer or health maintenance organization (HMO) from requiring an insured living with a chronic illness to obtain pharmaceutical services, including prescription drugs, from a mail-order pharmacy. The bill defines the term, "chronic illness," to mean human immunodeficiency virus infection (HIV), epilepsy, hypertension, or diabetes. The bill allows an insured with a chronic illness to use any willing retail pharmacy that accepts the terms and reimbursements as those given to a mail-order pharmacy. The bill requires insurers and HMOs to provide insureds with a chronic illness an explanation of the payment or reimbursement method and charges applicable to a mail order pharmacy and a comparison of such method and charges applicable to other providers of pharmaceutical services.

The bill requires mail order pharmacy contracts with HMOs or with insurers offering group or blanket plans to include a contract provision requiring the mail-order pharmacy to disclose to an insured living with a chronic illness the availability of pharmaceutical services from retail pharmacies and that the exclusive use of a mail order pharmacy is not required. Currently, state law does not prohibit an insurer or HMO from requiring an insured to obtain prescription drugs from a mail-order pharmacy or from charging a higher copayment for the use of a retail pharmacy.

The bill is effective July 1, 2016.

According to the Division of State Group Insurance, the bill will have an indeterminate negative fiscal impact. The severity of the impact would be based on the number of drugs removed from the Specialty Drug List and the negative impact to the pricing terms of the pharmacy benefit managers (PBM) contract.

II. Present Situation:

Access to Prescription Drugs

Private-sector entities that offer prescription drug insurance coverage, such as employers, labor unions, and managed care companies, often hire pharmacy benefit managers (PBMs) to manage these insurance benefits. The PBMs engage in many activities to manage their clients' prescription drug insurance coverage. The PBMs assemble networks of retail pharmacies so that a plan sponsor's members can fill prescriptions easily and in multiple locations by just paying a co-payment amount. The PBMs consult with plan sponsors to decide which drugs a plan sponsor will provide insurance coverage to treat each medical condition. The PBM manages this list of preferred drug products (formulary) for each of its plan sponsor clients. Consumers with insurance coverage are provided incentives, such as low copayments, to use formulary drugs.

Mail-Order Pharmacies

The PBMs may use mail-order pharmacies to manage prescription drug costs. Many plan sponsors encourage patients with chronic conditions who require repeated refills to seek the discounts that 90-day prescriptions and high-volume mail-order pharmacies can offer. Many PBMs own their own mail-order pharmacies. Insurers and PBMs use a variety of incentives to encourage the use of mail order pharmacies; especially for beneficiaries taking maintenance medications. Plans may offer lower copayments for mail order drugs, charge deductibles for retail purchases, or impose limitations on the number of prescriptions at a retail pharmacy. Some health plans have "mandatory mail order" programs that reimburse beneficiaries for maintenance medications only if the beneficiaries fill those prescriptions by mail. Some insurers are ambivalent about the savings offered by mail order or point to equivalent or better savings that can be achieved from filling 90-day supplies in network retail pharmacies. These payers contend that enrollees benefit from face-to-face contact with a pharmacist.¹

While PBMs provide pharmacy claims processing and mail-order pharmacy services to their customers, many provide additional services, including rebate negotiations with drug manufacturers, development of pharmacy networks, formulary management, prospective and retrospective drug utilization reviews, generic drug substitutions, and disease management programs. The decision of plan sponsors to use PBMs to control pharmacy benefit costs, however, can shift business away from retail pharmacies.

Concerns about Mail-Order Pharmacy

According to advocates of this bill, there is much documented reporting of inconsistencies across the healthcare system in the execution of the mail-order pharmacy model, as summarized below.

- Unlike specialty or many local pharmacies, mail-order pharmacies are often not consistent in proactively reaching out to the patients to provide refill reminders. The healthcare community has observed better health outcomes for chronically ill patients when pharmacies maintain close contact with their patients.

¹ Maryland Health Care Commission and Maryland Insurance Administration, Maintenance Drug Prescriptions-Mail Order Purchases Study (Dec. 23, 2005) (on file with Senate Committee on Banking and Insurance).

- Delivery methods are also inconsistent. Patients report privacy concerns like medication sometimes being left with family members, roommates, or neighbors who do not have knowledge of the patient's health status. Couriers will sometimes leave medication requiring refrigeration outside, which can render the medication ineffective. Leaving the medication package at the door also exposes it to possible theft.
- Filling medication through mail order for a 90-day period can be cost prohibitive to the patient. A copayment for a 30-day supply of medication is often more affordable for a patient than a copayment for a 90-day supply when required at the point of sale.²

Federal Patient Protection and Affordable Care Act

Health Insurance Reforms

The federal Patient Protection and Affordable Care Act (PPACA) was signed into law on March 23, 2010.³ The PPACA provides fundamental changes to the U.S. health care system by requiring health insurers to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. The PPACA imposes many insurance requirements including required essential health benefits, rating and underwriting standards, review of rate increases, and internal and external appeals of adverse benefit determinations.⁴ Section 1302 of the PPACA requires health plans that are required to provide coverage of essential health benefits (EHB), to meet cost-sharing limits and actuarial value requirements. The law directs that EHBs cover at least 10 specified categories, including prescription drugs.⁵

Prescription Drug Coverage

Currently, for purposes of a health plan complying with the essential health benefits, insurers and HMOs must include in their formulary drug list the greater of one drug for each U.S. Pharmacopeia (USP) category and class; or the same number of drugs in each USP category and class as the state's essential health benefit (EHB) benchmark plan. For plan years beginning on or after January 1, 2017, plans must also use a P&T committee process that meets certain requirements. The P&T committee must design formularies using scientific evidence that will include consideration of safety and efficacy, cover a range of drugs in a broad distribution of therapeutic categories and classes, and provide access to drugs that are included in broadly accepted treatment guidelines.⁶

Formulary Drug List

The regulations require a health plan must publish an up-to-date and complete list of all covered drugs on its formulary drug list, including any tiered structure and any restrictions on the manner in which a drug can be obtained, in a manner that is easily accessible to plan enrollees,

² AIDS Healthcare Foundation email (Jan. 28, 2016) (on file with Committee on Banking and Insurance).

³ The Patient Protection and Affordable Care Act (Pub. L. 111-148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010. P.L. 111-148.

⁴ Most of the insurance regulatory provisions in PPACA amend Title XXVII of the Public Health Service Act (PHSA), (42 U.S.C. 300gg *et seq.*).

⁵ See <https://www.cms.gov/ccio/resources/data-resources/ehb.html> (last visited Jan.14, 2016) for Florida's benchmark plan.

⁶ 45 CFR s. 156.122.

prospective enrollees, the state, the marketplace, HHS, and the public. Additionally, insurers and HMOs must also make this information available in a standard-readable format to provide the opportunity for third parties to create resources that aggregate information on different plans.

Access at Retail Pharmacies

For plans years beginning on or after January 1, 2017, an individual or small group health plan⁷ providing essential health benefits must implement the following access procedures:

A health plan must allow enrollees to obtain prescription drug benefits at in-network retail pharmacies, unless:

- The drug is subject to restricted distribution by the U.S. Food and Drug Administration; or
- The drug requires special handling, provider coordination, or patient education that cannot be provided by a retail pharmacy.

A health plan may charge enrollees a different cost-sharing amount for obtaining a covered drug at a retail pharmacy, but all cost sharing will count towards the plan's annual limitation on cost sharing under 45 CFR 156.135.8.

The health plans retain the flexibility to charge a lower cost-sharing amount when obtaining the drug at an in-network retail pharmacy. While this provision requires coverage of a drug at an in-network retail pharmacy, for plans that do not have a network, the enrollee would be able to go to any pharmacy to access their prescription drug benefit and those plans would, therefore, comply with this standard.

The issuers need only provide enrollees with the option to access drugs that are not exempted under 45 CFR s. 156.122(e) at an in-network retail pharmacy. The HHS notes that there are instances in which obtaining a drug through a mail-order pharmacy may not be a viable option, such as when an individual does not have a stable living environment and does not have a permanent address, or when a retail pharmacy option better ensures that consumers can access their EHB prescription drug benefit on short notice.⁹

According to the HHS final rules, certain drugs have a Risk Evaluation and Mitigation Strategy (REMS) that includes Elements to Assure Safe Use that may require that pharmacies, practitioners, or health care settings that dispense the drug be specially certified and that may limit access to the drugs to certain health care settings.¹⁰ If the health plan finds it necessary to restrict access to a drug for either of the reasons listed above, it must indicate this restricted

⁷ This regulation would not apply to large group plans, self-insured plans, transitional plans, or grandfathered plans.

⁸ 45 CFR s. 156.122(e).

⁹ Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016, 80 Fed. Reg. 10820, 10821.

¹⁰ FDA requires a Risk Evaluation and Mitigation Strategies (REMS) for certain drugs to ensure that the benefits of a drug or biological product outweigh its risks. The following is FDA's list of currently approved REMS: <http://www.accessdata.fda.gov/scripts/cder/remis/index.cfm> (last visited Jan. 28, 2016).

access on the formulary drug list that plans must make publicly available under 45 CFR s. 156.122(d).¹¹

Regulation of Insurers and Health Maintenance Organizations in Florida

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, HMOs, and other risk-bearing entities.¹² The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must obtain a Health Care Provider Certificate from the agency.¹³

Florida's State Group Health Insurance Program

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance, administers the state group health insurance program under a cafeteria plan.¹⁴ To administer the state group health insurance program, the DMS contracts with third party administrators for self-insured health plans, insured health maintenance organizations (HMOs), and a pharmacy benefits manager (PBM) for the state employees' self-insured prescription drug program.¹⁵

Currently, the state employees' self-insured prescription drug program allows members receiving prescription drugs for chronic conditions specified in this bill, to use any retail pharmacy that accepts the same contractual terms, conditions, and reimbursement as the mail order pharmacy for up to a 90-day supply of all non-specialty maintenance medications. These retail pharmacies may be participating in either the PBM's retail pharmacy network or the State of Florida specific "maintenance 90 at retail" pharmacy network. Copayments and conditions for a 90-day supply at retail are the same as for mail order.

The DMS contract with the PBM requires specialty drugs to be dispensed by its specialty pharmacy, which is considered mail order. This exclusive arrangement means the state benefits from aggressive percent discounts off the average wholesale price, as well as quarterly minimum rebate guarantee per specialty prescription payment, with an annual "true-up" of 100 percent of all rebates. An independent P&T committee determines which prescription drugs are specialty medications based on a variety of factors, including compliance, clinical indications, special handling (e.g., temperature requirements), and cost.

III. Effect of Proposed Changes:

Sections 1 creates s. 627.6442, F.S., and **Section 2** amends s. 641.31, F.S. These sections prohibit health insurers and HMOs from requiring an insured living with a chronic illness to obtain pharmaceutical services including drugs exclusively from a mail order pharmacy. The bill

¹¹ Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016, 80 Fed. Reg. 10820, 10821.

¹² Section 20.121(3)(a), F.S.

¹³ Section 641.21(1), F.S.

¹⁴ 26 U.S.C. s. 125.

¹⁵ Section 110.12315, F.S.

defines the term, “chronic illness,” to mean as human immunodeficiency virus infection (HIV), epilepsy, hypertension or diabetes.

The bill would allow insured individuals living with a chronic illness to obtain pharmaceutical services, including prescription drugs, through any willing retail pharmacy that agrees to the same terms and conditions applicable to a mail order pharmacy and accepts payment or reimbursement from the health insurer. This reimbursement or payment could not exceed the amount paid to a network mail order pharmacy for the same services.

Further, insurers and HMOs are required to provide insureds living with a chronic illness with an explanation of the payment or reimbursement method and charges applicable to network mail order pharmacy and a comparison of such method and charges with other providers of pharmaceutical services.

Mail order pharmacies contracting with HMOs or insurers (offering group or blanket plans) are required to include a contract provision requiring the mail-order pharmacy to disclose in its initial written correspondence with an insured living with a chronic illness that they may obtain pharmaceutical services from other providers, and that the exclusive use of a mail order pharmacy is not required.

Upon written request, the health insurer or HMO is required to provide information pertaining to the terms and conditions applicable to mail order pharmacies and to pharmacies desiring to provide services to insureds living with a chronic illness in their service area. If the pharmacy agrees to the same terms and conditions, the insurer is required to pay the pharmacy the same amount a mail order pharmacy is paid for the same pharmaceutical services.

Section 3 the bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to proponents of this bill, the bill would provide freedom of choice for insureds to select mail order or any willing retail pharmacy. Advocates state that is important for insureds to have in-person access to a pharmacist due to the complexity of certain prescribed drugs. For example, HIV is a complex disease often accompanied by other complex comorbidities such as Hepatitis C, mental health and addiction disorders. The HIV remains deadly and much more infectious when untreated.¹⁶ An insured would have access to any willing retail pharmacy regardless if the prescription was related to the treatment of a chronic illness or non-related illness.

The provisions of the bill would not apply to employers that offer self-insured plans.¹⁷ In Florida, an estimated 63 percent of private sector enrollees are enrolled in self-insured plans.

It is not clear how the “any willing pharmacy” provision would affect the operations or contracts of health insurers or HMOs with defined networks.

C. Government Sector Impact:**The Division of State Group Insurance**

If it is determined that SB 780 applies to the state group health insurance plans, then the state employees’ self-insured prescription drug program currently complies with the bill except for drugs on the specialty drug list. The Department of Management Services (DMS) would renegotiate its contract and pricing terms with the PBM regarding the method by which specialty drugs are dispensed. Removing the exclusivity provision of the contract would negatively affect pricing terms, which is the percent discount off average wholesale price and the quarterly minimum rebate guarantee per specialty prescription payment.¹⁸ The DMS notes that the bill takes effect July 1, 2016; however, the program typically makes benefits changes on a plan year basis, which is January 1 through December 31.

Office of Insurance Regulation

Indeterminate. The OIR did not provide a fiscal impact of the bill on the OIR.¹⁹

¹⁶ AIDS Healthcare Foundation email (Dec. 9, 2015) (on file with Committee on Banking and Insurance).

¹⁷ The federal Employee Retirement Income Security Act of 1975 (ERISA) allows employers to self-insure in order to offer uniform health benefits across states. A plan that is self-insured is subject to ERISA’s requirements. Such employers are not required to cover health care services for state-mandated benefits.

¹⁸ Department of Management Services, *2016 Agency Legislative Bill Analysis* (Nov. 15, 2015) (on file with Senate Committee on Banking and Insurance).

¹⁹ Office of Insurance Regulation, *2016 Agency Legislative Bill Analysis* (Jan. 15, 2015) (on file with Senate Committee on Banking and Insurance).

VI. Technical Deficiencies:

Generally, part VI of ch. 627, F.S., applies to individual health insurance coverage only. Section 627.601, F.S., provides “nothing in this part applies to or affects: (2) Any group or blanket policy, except as provided in ss. 627.648-627.6499.” The newly created subsection 627.6442(3), F.S., of part VI specifically includes “group or blanket accident and sickness policy, plan, or other contract” and appears to conflict with s. 627.601(2), F.S. The bill does not amend part VII of ch. 627, F.S., relating to group policies.

In order to avoid a conflict with federal regulations that become effective January 1, 2017, consideration should be given to adding an exemption for prescription drugs where the FDA has restricted distribution of drugs to certain facilities or practitioners or when appropriate dispensing of drugs requires special handling, coordination, or patient education not available in a retail pharmacy.

VII. Related Issues:

Limiting the effects of this bill to insureds with an immunodeficiency virus infection, epilepsy, hypertension or diabetes may be considered discriminatory. Under the federal regulations, a group health plan is not required to provide coverage for any particular benefits to any group of similarly situated individuals. However, benefits provided under a plan must be uniformly available to all similarly situated individuals.²⁰

Insurers and HMOs are required to provide insureds living with a chronic illness an explanation of the payment or reimbursement method and charges applicable to a mail order pharmacy and a comparison of such method and charges to other providers of pharmaceutical services. It is unclear, especially for newly covered individuals, how the insurer or the HMO would know which insureds or subscribers are living with a chronic illness.

The bill has potential privacy concerns as pharmacies would have to be notified that a person has one of the four chronic illnesses in order for the insured to receive the benefits under this bill. The insured may not want this information disclosed particularly if the prescription they are receiving is not for the chronic illness.

The bill provides that if a pharmacy agrees to the same terms, conditions, and payment as the mail-order pharmacy, the insurer or HMO is required to pay any willing retail pharmacy the same amount that is paid to a network mail order pharmacy for the same pharmaceutical services. It is unclear whether the non-network retail pharmacy would be subject to credentialing by the insurer or HMO.

VIII. Statutes Affected:

This bill substantially amends section 641.31 of the Florida Statutes.

This bill creates section 627.6442 of the Florida Statutes.

²⁰ 45 C.F.R. s. 146.121.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Garcia

38-00360A-16

2016780__

1 A bill to be entitled
 2 An act relating to the provision of
 3 pharmaceutical services; creating s. 627.6442, F.S.;
 4 providing that an insured living with a chronic
 5 illness may not be required to obtain pharmaceutical
 6 services exclusively from a mail order pharmacy;
 7 defining the term "chronic illness"; prohibiting the
 8 imposition of copayments or conditions on an insured
 9 living with a chronic illness if such copayments or
 10 conditions are not imposed on an insured who uses a
 11 mail order pharmacy that meets certain requirements;
 12 requiring health insurers to provide to an insured
 13 living with a chronic illness an explanation and
 14 comparison of payment methods and charges for
 15 pharmaceutical services from mail order pharmacies and
 16 other providers of pharmaceutical services; requiring
 17 health insurance contracts to require certain
 18 disclosures to insureds by mail order pharmacies;
 19 requiring health insurers to pay a pharmacy that is
 20 not a mail order pharmacy the same amount paid to a
 21 mail order pharmacy for the same services if the
 22 pharmacy agrees to the same terms and conditions that
 23 apply to a mail order pharmacy; amending s. 641.31,
 24 F.S.; providing that a health maintenance organization
 25 subscriber living with a chronic illness may not be
 26 required to obtain pharmaceutical services exclusively
 27 from a mail order pharmacy; defining the term "chronic
 28 illness"; prohibiting the imposition of copayments or
 29 conditions on a subscriber living with a chronic

Page 1 of 6

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

38-00360A-16

2016780__

30 illness if such copayments or conditions are not
 31 imposed on a subscriber who uses a mail order pharmacy
 32 that meets certain requirements; requiring health
 33 maintenance organizations to provide to subscribers
 34 living with a chronic illness an explanation and
 35 comparison of payment methods and charges for
 36 pharmaceutical services from mail order pharmacies and
 37 other providers of pharmaceutical services; requiring
 38 health maintenance organization contracts to require
 39 certain disclosures to subscribers by mail order
 40 pharmacies; requiring health maintenance organizations
 41 to pay a pharmacy that is not a mail order pharmacy
 42 the same amount paid to a mail order pharmacy for the
 43 same services if the pharmacy agrees to the same terms
 44 and conditions that apply to a mail order pharmacy;
 45 providing an effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:48
49 Section 1. Section 627.6442, Florida Statutes, is created
50 to read:

51 627.6442 Provision of pharmaceutical services.—A health
 52 insurance policy, plan, or other contract for health care
 53 services issued, delivered, or renewed by a health insurer in
 54 this state may not require an insured living with a chronic
 55 illness to obtain pharmaceutical services, including
 56 prescription drugs, exclusively from a mail order pharmacy. As
 57 used in this section, the term "chronic illness" means human
 58 immunodeficiency virus infection, epilepsy, hypertension, or

Page 2 of 6

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

38-00360A-16

2016780__

59 diabetes.

60 (1) An insured living with a chronic illness who elects not
 61 to use a mail order pharmacy may not be required to pay a
 62 copayment or satisfy conditions for the receipt of
 63 pharmaceutical services if such copayments or conditions are not
 64 imposed on an insured who uses a mail order pharmacy and the
 65 pharmacy used by the insured living with a chronic illness:

66 (a) Agrees to the same terms and conditions applicable to a
 67 mail order pharmacy; and

68 (b) Accepts payment or reimbursement from the health
 69 insurer which is no more than the amount that would be paid to a
 70 mail order pharmacy for the same services.

71 (2) A health insurer that issues a policy, plan, or other
 72 contract that provides coverage for pharmaceutical services from
 73 a mail order pharmacy shall provide each insured living with a
 74 chronic illness an explanation of the payment or reimbursement
 75 method and charges applicable to the mail order pharmacy and a
 76 comparison of such method and charges to those of other
 77 providers of pharmaceutical services. For health insurers that
 78 provide an outline of coverage to an insured living with a
 79 chronic illness, the inclusion of such an explanation in an
 80 outline of coverage constitutes compliance with this subsection.

81 (3) A health insurer that contracts with a mail order
 82 pharmacy to provide pharmaceutical services under a group or
 83 blanket accident and sickness policy, plan, or other contract
 84 shall include a contract provision requiring the mail order
 85 pharmacy to disclose in its initial written correspondence with
 86 an insured living with a chronic illness that such insured may
 87 obtain pharmaceutical services from other providers of

38-00360A-16

2016780__

88 pharmaceutical services and that the exclusive use of a mail
 89 order pharmacy is not required.

90 (4) Upon written request to the health insurer, a pharmacy
 91 that desires to provide services to insureds living with a
 92 chronic illness in the pharmacy's service area shall be provided
 93 information pertaining to the terms and conditions applicable to
 94 mail order pharmacies available in that service area. If the
 95 pharmacy agrees in writing to the same terms and conditions and
 96 to be paid at no more than the amount that would be paid to a
 97 mail order pharmacy for the same services, the insurer shall pay
 98 the pharmacy the same amount paid to a mail order pharmacy for
 99 the same pharmaceutical services.

100 Section 2. Subsection (44) is added to section 641.31,
 101 Florida Statutes, to read:

102 641.31 Health maintenance contracts.—

103 (44) A health maintenance contract that provides
 104 pharmaceutical services in this state may not require
 105 subscribers living with a chronic illness to obtain
 106 pharmaceutical services, including prescription drugs,
 107 exclusively from a mail order pharmacy. As used in this
 108 subsection, the term "chronic illness" means human
 109 immunodeficiency virus infection, epilepsy, hypertension, or
 110 diabetes.

111 (a) A subscriber living with a chronic illness who elects
 112 not to use a mail order pharmacy may not be required to pay a
 113 copayment or satisfy conditions for the receipt of
 114 pharmaceutical services if such copayments or conditions are not
 115 imposed on a subscriber who uses a mail order pharmacy and the
 116 pharmacy used by a subscriber living with a chronic illness:

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2016780__

117 1. Agrees to the same terms and conditions applicable to a
 118 mail order pharmacy; and
 119 2. Accepts payment or reimbursement from the health
 120 maintenance organization which is no more than the amount that
 121 would be paid to a mail order pharmacy for the same services.
 122 (b) A health maintenance organization that issues a
 123 contract that provides coverage for pharmaceutical services from
 124 a mail order pharmacy shall provide each subscriber living with
 125 a chronic illness an explanation of the payment or reimbursement
 126 method and charges applicable to the mail order pharmacy and a
 127 comparison of such method and charges to those of other
 128 providers of pharmaceutical services. For health maintenance
 129 organizations that provide a member handbook to a subscriber
 130 living with a chronic illness, the inclusion of such an
 131 explanation in the member handbook constitutes compliance with
 132 this paragraph.
 133 (c) A health maintenance organization that contracts with a
 134 mail order pharmacy to provide pharmaceutical services under a
 135 health maintenance contract shall include a contract provision
 136 requiring the mail order pharmacy to disclose in its initial
 137 written correspondence with a subscriber living with a chronic
 138 illness that such subscriber may obtain pharmaceutical services
 139 from other providers of pharmaceutical services and that the
 140 exclusive use of a mail order pharmacy is not required.
 141 (d) Upon written request to the health maintenance
 142 organization, a pharmacy that desires to provide services to
 143 subscribers living with a chronic illness in the pharmacy's
 144 service area shall be provided information pertaining to the
 145 terms and conditions applicable to mail order pharmacies

Page 5 of 6

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2016780__

146 available in that service area. If the pharmacy agrees in
 147 writing to the same terms and conditions and to be paid at no
 148 more than the amount that would be paid to a mail order pharmacy
 149 for the same services, the organization shall pay the pharmacy
 150 the same amount paid to a mail order pharmacy for the same
 151 pharmaceutical services.

152 Section 3. This act shall take effect July 1, 2016.

Page 6 of 6

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

The Florida Senate
State Senator René García
38th District

Please reply to:

□ **District Office:**

1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

January 13th, 2016

The Honorable Senator Lizbeth Benacquisto
Chair, Committee on Banking and Insurance
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Benacquisto:

Please have this letter serve as my formal request to have **SB 780: Provision of Pharmaceutical Services**, be heard in the next possible Banking and Insurance Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García
District 38
RG:AD

CC: James Knudson, Sheri Green

Committees: Appropriations Subcommittee on Health & Human Services, Chairman, Appropriations, Children, Families, and Elderly Affairs, Health Policy, Agriculture, Education Pre-K – 12, Joint Legislative Budget Committee and Communications, Energy and Public Utilities.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

780
Bill Number (if applicable)

Topic Patient's choice

Amendment Barcode (if applicable)

Name Hal Deasman

Job Title Pharmacist OWNER

Address 1224 Cuddle Doon Ave
Street

Phone 850-283-6496

Milton FL 32583
City State Zip

Email crestviewpharmacy@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Crestview Pharmacy, Independent

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-2016
Meeting Date

SB780
Bill Number (if applicable)

Topic Mail Order Pharmacy

Amendment Barcode (if applicable)

Name Joy Ryan

Job Title _____

Address 325 W. Colloze
Street

Phone 425-4000

Tallahassee 32312
City State Zip

Email joy@meenanlaw
firm.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AHIP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

2

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-16

Meeting Date

780

Bill Number (if applicable)

Topic Senate Bill 780

Amendment Barcode (if applicable)

Name Margarette

Job Title Pharmacist

Address 4737 Dupont Circle

Phone (850) 712-6256

Street

Pace

FL

32571

City

State

Zip

Email maggie_kettering@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Crestview Pharmacy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

780

708

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Riley K. Nelson

Job Title Pharmacist / Pharmacy Owner

Address 3793 Hwy 4

Phone (850) 712-0697

Say Fl. 32565

City

State

Zip

Email rnel1139@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Royal Pharmacy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/14
Meeting Date

SB 780
Bill Number (if applicable)

Topic Pharmaceutical Services

Amendment Barcode (if applicable)

Name Larry Gonzalez

Job Title General Counsel

Address 223 S. Gadsden ST
Street

Phone 570-6307

Tall. FL 32301
City State Zip

Email larrygonz@earthlink.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Society of Health System Pharmacists

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

780
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Cynthia Henderson

Job Title _____

Address 100 E. Jefferson St. Suite A

Phone 850 559 0855

Tall. FL 32303
City State Zip

Email cyhenderson@me.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing EPIC RX

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

780

Bill Number (if applicable)

Topic Pharmacy Networks

Amendment Barcode (if applicable)

Name Abigail Stoddard

Job Title Pharmacist

Address 4434 Pillsbury Ave S

Phone 612 616 1431

Street

Minneapolis

MN

55419

City

State

Zip

Email astoddard@primetherapeutics.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Prime Therapeutics

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-16

Meeting Date

780

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Row Puckett

Job Title Pharmacy District Manager - Buy-Like Drug

Address 2145 Legion Rd
Street

Phone (850) 209-2112

Greenville FL 32460
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing APIC RX

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

780

Bill Number (if applicable)

Topic Pharmacy Services

Amendment Barcode (if applicable)

Name Jason King

Job Title Legislative Affairs Manager

Address 700 SE 7th Ave #400

Phone 954-610-3064

Fort Lauderdale FL 33316
City State Zip

Email jason.king@aidshealth.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AIDS Health care Foundation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

780

Meeting Date

Bill Number (if applicable)

Topic Provision of Pharmaceutical Services

Amendment Barcode (if applicable)

Name Michael Jackson

Job Title Executive Vice President and CEO

Address 610 North Adams Street

Phone (850) 222-2400

Street

Tallahassee

Florida

32301

Email mjackson@pharmview.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Pharmacy Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

780

Meeting Date

Bill Number (if applicable)

Topic Provision of Pharmaceutical Services

Amendment Barcode (if applicable)

Name William Garst

Job Title Consultant Pharmacist

Address 11327 NW 60th Terrace

Phone (904) 333-8243

Street

Alachua

Florida

32615

Email mjackson@pharmview.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2-1-16

Date

SB780

Bill Number

Name PRESTON McDONALD

Phone 850-982-9087

Address 5740 WESTMONT ROAD

E-mail PRESTON@ENZYEPHARMACY.LLC

Street

MELTON

FL

State

32583

Zip

Job Title PHARMACEUT

Speaking: For Against Information

Appearing at request of Chair

Subject PATIENT'S RIGHT TO CHOOSE HEALTHCARE PROVIDER

Representing MAY NOT BE PRESENT - COMPANION BILL BEING HEARD TODAY IN HOUSE

Lobbyist registered with Legislature: Yes No

PLEASE ANNOUNCE MY STANCE - STRONGLY IN FAVOR!

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

SB780
Bill Number (if applicable)

Topic PROVISION OF PHAR. SERVICES
Amendment Barcode (if applicable)

Name ROBIN HERRINGTON

Job Title PHARMACY TECH

Address 6505 Hwy 29 N

Street
City MAUNO State FL Zip

850-
587-2511
Phone

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SCOTTS PHARMACY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

SB780
Bill Number (if applicable)

Topic Provision of Pharmaceutical Services

Amendment Barcode (if applicable)

Name Gina Nemith

Job Title Pharmacist

Address 5687 Twin Creek Circle

Phone (850) 587 2511

Street

Pace

City

FL

State

32571

Zip

Email ginamanerx@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Scott's Pharmacy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-2016

Meeting Date

SB 780

Bill Number (if applicable)

Topic PROVISION of Pharmaceutical Services

Amendment Barcode (if applicable)

Name Bill Mincy

Job Title VP, PPSC

Address 3375-I Capital Circle NE

Phone 850-322-7740

Street

Tallahassee

FL

32308

Email bill.mincy@

City

State

Zip

PPSC ONLINE.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing PPSC / Florida Independent Pharmacy Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

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 986

INTRODUCER: Banking and Insurance Committee and Senator Simpson

SUBJECT: Workers' Compensation System Administration

DATE: February 2, 2016

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 986 amends regulatory provisions of ch. 440, F.S., the "Workers Compensation Law," which are administered by the Department of Financial Services (DFS). The bill affects provisions related to compliance and enforcement, as follows:

- Creates a 25 percent penalty credit for employers who have not been previously issued a stop-work order or order of penalty assessment for non-compliance with coverage requirements if they maintain required business records and timely respond to the written DFS business records requests.
- Establishes a deadline for employers to file certain documentation to receive a penalty reduction.
- Reduces the imputed payroll multiplier related to penalty calculations from 2 times to 1.5 times the statewide average weekly wage.
- Eliminates a 3-day response requirement applicable to employer held exemption documentation.

The bill eliminates fees collected by the DFS relating to new insurer registration and the Special Disability Trust Fund notices of claim and proofs of claim.

The bill revises provisions related to Health Care Services and Disputes as follows:

- Removes insurers and employers from the medical reimbursement dispute provision since they meet their adjustment, disallowance and provider violation reporting duties through other provisions of law.

- Allows a Judge of Compensation Claims to designate an expert medical advisor of their choosing, rather than only those that are certified by the DFS.

The bill also:

- Eliminates the requirement for employers to notify the DFS by telephone or telegraph within 24 hours of any work related death and instead uses other reporting requirements.
- Eliminates the Preferred Worker Program, which has been inactive for over 10 years.
- Allows employers to notify their insurers of their employee's coverage exemption, rather than requiring that a copy of the exemption be provided.

The effective date of the bill is October 1, 2016.

II. Present Situation:

Administration of the Workers' Compensation System in Florida

The Division of Workers' Compensation within the Department of Financial Services is responsible for administering ch. 440, F.S., which includes the enforcement of coverage requirements,¹ administration of workers' compensation health care delivery system,² data collection,³ and assist injured workers, employers, insurers, and providers in fulfilling their responsibilities under ch. 440, F.S.⁴

Coverage Requirements

Whether an employer is required to have workers' compensation insurance depends upon the employer's industry and the number of employees. Employers may secure coverage by purchasing a workers' compensation insurance policy or qualifying as a self-insurer.⁵ Individuals who elect an exemption are not considered "employees," for premium calculation purposes, and are not eligible to receive workers' compensation benefits if they suffer a workplace injury.

Enforcement of Coverage Requirements

Stop Work Orders

If an employer fails to comply with workers' compensation coverage requirements, the DFS must issue a stop-work order (SWO) within 72 hours of determining noncompliance.⁶ The SWO requires the employer to cease all business operations. The SWO remains in effect until the employer secures appropriate coverage and the DFS issues an order releasing the SWO (for employers that have paid the assessed penalty); or an order of conditional release (for employers that have agreed to pay the penalty in installments pursuant to a payment agreement schedule with the DFS).

¹ Section 440.107(3), F.S.

² Section 440.13, F.S.

³ Section 440.185 and 440.593, F.S.

⁴ Section 440.191, F.S.

⁵ Section 440.38, F.S.

⁶ Section 440.107, F.S.

An SWO is issued for the following violations:

- Failure to obtain workers' compensation insurance;
- Material understatement or concealment of payroll;
- Material misrepresentation or concealment of employee duties to avoid paying the proper premium;
- Material concealment of information pertinent to the calculation of an experience modification factor; and
- Failure to produce business records within 10 days of receipt of a written request from the DFS.⁷

Imposition of Payroll for Penalty Purposes

In addition to the SWO, employers are assessed a penalty equal to 2.0 times what the employer would have paid in workers' compensation premiums for all periods of non-compliance during the preceding 2-year period or \$1,000, whichever is greater.⁸ The SWO remains in effect and the employer cannot conduct business until the DFS has calculated the penalty imputed based on payroll. Sometimes, an employer will not have the required payroll information or will not comply with the DFS' business records request. Section 440.107(7), F.S., provides a means for the DFS to impute the employer's payroll for penalty purposes.

The imputed payroll under the law is twice the statewide average weekly wage (SAWW)⁹ for each individual that the employer failed to cover. Depending on the circumstances of a particular case, the DFS may have to impute payroll for all of the employees for the entire two-year period or the DFS may only have to impute payroll for a one or more employees for a small portion of the two-year period. It depends upon the quality and availability of the employer's records. When the DFS authority to impute payroll was added to the law in 2003,¹⁰ as one of the deterrents to fight fraud, it was set at 1.5 times the SAWW. It was increased to 2 times the SAWW in 2014. The DFS suggests that this can lead to "exorbitant penalty amounts that do not correlate with the violation committed by the employer."¹¹

Avoiding Work Stoppage and Minimizing Penalties Due to Noncompliance

There are two ways for a non-compliant employer to mitigate the impact of a DFS finding of non-compliance on their business operations. First, if the employer comes into compliance after initiation of an investigation, but before they are ordered to stop work, an SWO is not issued. Instead, if the law requires penalties, the DFS will only levy penalties. In that case, the penalties are levied an Order of Penalty Assessment (OPA). This permits the employer to avoid work stoppage due to an SWO, while also achieving compliance. This also provides the employer an opportunity to reduce their potential penalty. If the employer has never received an SWO before, the employer may receive a credit against the penalty equal to the amount of the initial payment

⁷ Section 440.107(7)(d), F.S.

⁸ Section 440.107(7)(d), F.S.

⁹ The statewide average weekly wage is determined by the DFS pursuant to s. 440.12(2), F.S.

¹⁰ Ch. 2003-412, s. 13, Laws of Fla.

¹¹ Email from the Division of Workers' Compensation, Department of Financial Services, (Jan. 6, 2016) (on file with the Senate Committee on Banking and Insurance).

of workers' compensation premium resulting from them achieving compliance following the initiation of the DFS investigation.¹²

DFS Compliance and Enforcement Statistics FY 2014-2015

For fiscal year 2014-2015, the DFS issued 2,727 SWOs with approximately \$52.4 million in penalties to employers that violated the coverage requirements.¹³ The DFS imputed payroll against the employer in 1,584 cases.¹⁴ The DFS issued 256 OPAs levying about \$3.1 million in penalties when an employer came into compliance with the coverage requirements prior to the issuance of an SWO. The DFS reports that they are able to collect between 25 percent and 35 percent of the penalties they assess.¹⁵

The DFS maintains an online database of exemption holders.¹⁶ The DFS reports that of the 367 non-construction LLCs that received an SWO in fiscal year 2014-2015, 32 corrected their non-compliance because one or more LLC members obtained exemptions.¹⁷ An additional 30 non-construction LLCs achieved compliance by purchasing coverage for four employees.

Medical Reimbursement Disputes

The DFS is responsible for resolving medical reimbursement disputes between health care providers and insurers¹⁸ or employers.¹⁹ Health care providers, insurers, and employers have 45 days from receipt of notice of disallowance or adjustment of payment from an insurer to file a reimbursement dispute petition with the DFS. Insurers have 30 days from receipt of the provider's petition to submit all documentation substantiating the insurer's disallowance or adjustment to the DFS; otherwise they waive all objections to the petition. The DFS has 120 days from receipt of all documentation to issue a written determination. The DFS's determination is subject to the hearing provisions of the Administrative Procedures Act.²⁰

Insurers are required to report all instances of health care provider overutilization to the DFS.²¹ The DFS has implemented rules formalizing the procedure for reporting alleged provider

¹² Section 440.107(7)(d)1., F.S.

¹³ Florida Department of Financial Services, *Division of Workers' Compensation 2015 Results & Accomplishments Report*, at <http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Reports/AnnualReportWC2015.pdf>.

¹⁴ Department of Financial Services, Analysis of Senate Bill 986, (Jan. 6, 2016) (on file with Senate Committee on Banking and Insurance).

¹⁵ Department of Financial Services, Analysis of Senate Bill 986, (Jan. 6, 2016) (on file with Senate Committee on Banking and Insurance).

¹⁶ *Division of Workers' Compensation Proof of Coverage Search Page*, <https://apps8.fldfs.com/proofofcoverage/Search.aspx> (last visited Jan. 4, 2016). Filter search by "Exemption Holder Name" or "Exemption Holder SSN."

¹⁷ Email from the Division of Workers' Compensation, Department of Financial Services, (Jan. 5, 2016) (on file with Senate Banking and Insurance Committee).

¹⁸ The terms "carrier" and "insurer" are used interchangeably within the context of the workers' compensation law. In fact, the definition of "insurer" expressly includes the term "carrier." s. 440.02(38), F.S. "Carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes a self-insurer, and a commercial self-insurance fund authorized under s. 624.462. s. 440.02(4), F.S. While this analysis uses the term "insurer" in this instance to maintain internal consistency, the portion of the bill described strikes the term "carrier" from statute.

¹⁹ Section 440.13(7), F.S.

²⁰ Ch. 120, F.S.

²¹ Section 440.13(6), F.S.

violations.²² Any interested person can report an alleged provider violation through this procedure. Additionally, the DFS collects adjustment information for all reported workers' compensation medical bills. When the insurer properly codes and reports their adjustments and reimbursement decisions, the DFS can use their electronic database to identify alleged overutilization. Insurer compliance with electronic bill reporting requirements satisfies their statutory obligation to report all instances of overutilization.²³ The inclusion of insurers and employers in the medical reimbursement dispute provision can lead to confusion over the correct method for insurer or employer reporting of alleged provider violations and insurer reporting of medical overutilization issues.

Expert Medical Advisors and Judges of Compensation Claims

The Office of the Judges of Compensation Claims is responsible for resolving workers' compensation benefit disputes.²⁴ A Judge of Compensation Claims (JCC) receives medical evidence and testimony in the course of administering their assigned cases. Whenever there is a conflict in medical evidence or medical opinion, the JCC must appoint an Expert Medical Advisor (EMA) to address the conflict.²⁵ The EMAs are certified by the DFS.²⁶

Certification as an EMA requires specialized workers' compensation training or experience and medical board certification or eligibility. The DFS is also required to "consider the qualifications, training, impartiality, and commitment of the health care provider to the provision of quality medical care at a reasonable cost."²⁷ Currently, there are 153 EMAs certified by the DFS.²⁸ The procedures that an EMA must abide by and the party responsible for the cost of the EMA's services are established by statute.²⁹

The JCCs often have difficulty finding an eligible EMA to assist them with a case. This often occurs because there are too few EMAs in a particular specialty or the EMAs present in the local area of the injured worker have a conflict in participating in the matter because they have previously treated the injured worker or consulted in their care. When this occurs, the JCC identifies a willing provider with the appropriate qualifications and submits their information to the DFS for certification. Since the JCC has already considered the prospective EMA's qualifications, there is little benefit in going through the additional burden and delay of submitting the prospective EMA to the DFS for certification.

Workers' Compensation Special Disability Trust Fund

The Florida Special Disability Trust Fund (SDTF) was established to encourage the employment of workers with preexisting permanent physical impairments. The SDTF reimburses employers (or their carriers) for the excess in workers' compensation benefits provided to an employee with

²² Chapter 69L-34, F.A.C.

²³ Rule 69L-34.002, F.A.C.

²⁴ Section 440.192, F.S.

²⁵ Section 440.25(4)(d), F.S.

²⁶ Section 440.13(9)(a), F.S.

²⁷ *Id.*

²⁸ FLORIDA DEPARTMENT OF FINANCIAL SERVICES, *Florida Division of Workers' Compensation Expert Medical Advisor List*, <https://apps.fdfs.com/provider/> (last visited Jan. 5, 2016).

²⁹ Section 440.13(9), F.S.

a preexisting impairment who is subsequently injured in a workers' compensation accident. As part of the reimbursement process, the SDTF determines whether claims are eligible to receive reimbursements, as well as audits and processes reimbursement requests. Reimbursement under the SDTF is not available for injuries occurring on or after January 1, 1998. The SDTF is funded by annual assessments on insurers providing compensation insurance coverage. Claims with an accident date before 1998 are still eligible to seek reimbursements. After a claim has been accepted, a request for reimbursement of additional expenses may be submitted annually.

Currently, every Notice of Claim against the SDTF must be submitted with a \$250 fee. An insurer that files a notice of claim against the SDTF must submit certain documents to perfect their claim. If the required documents are not filed with their notice of claim, they must file a proof of claim and include a \$500 fee.

Preferred Worker Program

The Preferred Worker Program (PWP) was enacted by the Legislature and became effective January 1, 1994.³⁰ The intent of the program was to provide financial incentives for employers to hire employees who suffered a workplace injury resulting in permanent physical disability and are unable to return to work for their previous employer. The PWP would reimburse an employer for the costs of workers' compensation insurance premium related to the preferred worker for up to 3 years of continuous employment. This reimbursement was to be paid from the SDTF.³¹ The Department of Financial Services and the Department of Education have rulemaking authority to implement the program.

III. Effect of Proposed Changes:

Coverage Requirements

The bill removes a requirement that exemption holders revoke their exemptions by mail. This will allow electronic revocations.³² Since the DFS maintains an online exemption application and record review system, the DFS could add online revocation requests to their system. (Section 1)

The bill removes the requirement that exemption applicants provide their Federal Tax Identification Number when filing an electronic application for exemption with the DFS.³³ The Internal Revenue Service does not issue Federal Tax Identification Numbers to individuals; rather, they are issued to businesses. The Federal Tax Identification Number of the applicant's employer will still be collected. (Section 1)

The bill changes a requirement that employers provide their insurer with copies of their employee's certificate of exemption, instead the employer will notify the insurer of the

³⁰ Ch.93-415, s. 43, Laws of Fla.

³¹ Section 440.49(8), F.S.

³² Section 440.05(1), (2), and (5), F.S. DFS reports that 2,314 exemption holders filed voluntary revocations in fiscal year 2014-2015. Email from the Division of Workers' Compensation, Department of Financial Services, (Jan. 6, 2016) (on file with Committee on Banking and Insurance).

³³ Section. 440.05(3), F.S.

exemptions.³⁴ Since the DFS maintains online exemption information, the insurer can still verify the exemption without needing a copy of the certificate of exemption. (Section 1)

The bill removes a requirement that construction employers maintain written exemption acknowledgements by their corporate officers that hold an exemption certificate.³⁵ The bill also eliminates the 3-day response requirement applicable to exemption information held by the employer since the DFS maintains these records online. (Section 1)

Compliance and Enforcement; Penalties

The bill reduces the imputed payroll multiplier from 2 times the statewide average weekly wage and returns it to the pre-2014 level of 1.5 times the statewide average weekly wage. (Section 2)

The bill adds two new eligibility requirements to the existing penalty credit for achieving compliance after the initiation of an investigation and adds a second penalty credit. The bill requires non-compliant employers to document their purchase of coverage to the DFS within 28 days of the Stop Work Order or Order of Penalty Assessment to qualify for the reduction in penalty and requires that the employer has never before received an SWO or OPA, rather than just an SWO. The bill creates another penalty credit for non-compliant employers who have never previously received an SWO or OPA. If they maintain business records consistent with the requirements of s. 440.107(5), F.S.,³⁶ and timely respond to the written DFS business records requests (a 10-day response requirement), the DFS must reduce their penalty by 25 percent. (Section 2)

Medical Services; Disputes

The bill removes insurers and employers from the provision allowing the filing of a medical reimbursement dispute over the disallowance or adjustment of a medical payment. Accordingly, only health care providers are allowed to file petitions for resolution of medical billing disputes. (Section 3)

The bill allows a JCC to designate an EMA of their choosing, rather than only those that are certified as EMAs by the DFS. The EMAs, whether certified by the DFS or designated by the JCC, will continue to be subject to the existing procedural requirements of statute. (Section 3)

Elimination of Fees

The bill eliminates the registration fee of \$100 required of every new workers' compensation carrier that registers with the DFS.³⁷ (Section 6)

The bill eliminates the SDTF Notice of Claim Fee of \$250 and the Proof of Claim Fee of \$500 Special Disability Trust Fund. (Section 5)

³⁴ *Id.*

³⁵Section. 440.05(10), F.S.

³⁶ Section 440.107(5), F.S., requires the DFS to adopt rules specifying the business records that the employer must maintain. Rule 69L-6.015, F.A.C., contains these requirements.

³⁷ Section 440.52(1), F.S.

Other Provisions

The bill removes a requirement that employers notify the DFS by telephone or telegraph within 24 hours of any work related death.³⁸ This relates to an obsolete function when the DFS had a role in workplace safety investigations. However, the DFS' former workplace safety role is preempted to the federal Occupational Safety and Health Administration of the Department of Labor with some exceptions.³⁹ The employers not covered⁴⁰ by the OSHA include self-employed workers, immediate family members of farm employers, and workers whose hazards are regulated by another federal agency (for example, the Mine Safety and Health Administration, the Department of Energy, or Coast Guard).⁴¹ The DFS will continue to receive reports of death through an existing employer-reporting requirement.⁴² (Section 4)

The bill eliminates the Preferred Worker Program. The program has experienced a small number of claims and has not made any program reimbursements in over a decade. The DFS reports that the program paid seven claims totaling \$15,915 since 1994. The DFS last issued a reimbursement under the program in 2002.⁴³ (Section 5)

The bill provides technical, conforming changes to revises cross-references to conform to changes made by the bill. (Sections 7, 8, 9, and 10)

The bill is effective October 1, 2016. (Section 11)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁸ Section 440.185(3), F.S.

³⁹ The OSHA requires employers subject to OSHA to report fatalities within 8 hours. Available at <https://www.osha.gov/as/opa/worker/employer-responsibility.html>.

⁴⁰ See https://www.osha.gov/OSHA_FAQs.html (last visited January 26, 2016).

⁴¹ Workers at state and local government agencies are not covered by Federal OSHA, but have the OSHA protections if they work in those states that have an OSHA-approved state program.

⁴² Section 440.185(2), F.S.

⁴³ Florida Department of Financial Services, 2016 Agency Analysis of Senate Bill 986 (Jan. 6, 2016).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill eliminates the new insurer registration fee of \$100 and the SDTF Notice of Claim and Proof of Claim fees of \$250 and \$500, respectively.

B. Private Sector Impact:

The bill eliminates the new insurer registration fee of \$100. The DFS reports that four registrations for new workers' compensation insurers were received in FY 2014-2015.

Insurers filing SDTF Notices of Claim or Proofs of Claim will no longer be assessed the \$250 and \$500 fee, respectively.

C. Government Sector Impact:

The bill eliminates the SDTF Notice of Claim fee of \$250 and the SDTF Proof of Claim fee of \$300. Insurers may continue to file notices of claim and proofs of claims. The SDTF received no notices of claims or proofs of claims in FY 2013-14 and one notice of claim in FY 2014-15.⁴⁴

The bill eliminates the new insurer registration fee of \$100. New insurers will continue to register with the DFS as a workers' compensation insurer, except without the fee. The DFS reports that four new registrations were received in fiscal year 2014-2015.⁴⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 440.021, 440.05, 440.107, 440.13, 440.185, 440.42, 440.49, 440.50, 440.52, and 624.4626.

⁴⁴ AMI Risk Consultants, Inc., *State of Florida Special Disability Trust Fund Actuarial Review as of June 30, 2015*, at 5, available at http://www.myfloridacfo.com/Division/WC/pdf/State-of-Florida-Disability-Trust-Fund_2015_FINAL_09-10-15.pdf.

⁴⁵ Email from The Division of Workers' Compensation, Department of Financial Services, (Jan. 6, 2016) (on file with Senate Committee on Banking and Insurance).

IX. Additional Information:

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

CS by Banking and Insurance on February 2, 2016:

The CS reinstates current statutory coverage requirements for non-construction limited liability companies and clarifies the process for the appointment of an expert medical advisor.

- B. **Amendments:**

None.



756866

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 45 - 110

and insert:

Section 1. Section 440.021, Florida Statutes, is amended to read:

440.021 Exemption of workers' compensation from chapter 120.—Workers' compensation adjudications by judges of compensation claims are exempt from chapter 120, and no judge of compensation claims shall be considered an agency or a part



756866

11 thereof. Communications of the result of investigations by the
12 department pursuant to s. 440.185(3) ~~s. 440.185(4)~~ are exempt
13 from chapter 120. In all instances in which the department
14 institutes action to collect a penalty or interest which may be
15 due pursuant to this chapter, the penalty or interest shall be
16 assessed without hearing, and the party against which such
17 penalty or interest is assessed shall be given written notice of
18 such assessment and shall have the right to protest within 20
19 days of such notice. Upon receipt of a timely notice of protest
20 and after such investigation as may be necessary, the department
21 shall, if it agrees with such protest, notify the protesting
22 party that the assessment has been revoked. If the department
23 does not agree with the protest, it shall refer the matter to
24 the judge of compensation claims for determination pursuant to
25 s. 440.25(2)-(5). Such action of the department is exempt from
26 the provisions of chapter 120.

27 Section 2. Subsections (1), (2), (3), (5), (10), and (11)
28 of section 440.05, Florida Statutes, are amended to read:

29 440.05 Election of exemption; revocation of election;
30 notice; certification.-

31 (1) Each corporate officer who elects not to accept the
32 provisions of this chapter or who, after electing such
33 exemption, revokes that exemption shall submit mail ~~mail~~ to the
34 department ~~in Tallahassee~~ notice to such effect in accordance
35 with a form to be prescribed by the department.

36 (2) Each sole proprietor or partner who elects to be
37 included in the definition
38

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



756866

40 And the title is amended as follows:

41 Delete lines 3 - 7

42 and insert:

43 administration; amending s. 440.021, F.S.; conforming
44 a cross-reference; amending s. 440.05, F.S.; deleting
45 a required item to be



563546

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Between lines 277 and 278

insert:

(c) If there is disagreement in the opinions of the health care providers, if two health care providers disagree on medical evidence supporting the employee's complaints or the need for additional medical treatment, or if two health care providers disagree that the employee is able to return to work, the department may, and the judge of compensation claims shall, upon



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11 his or her own motion or within 15 days after receipt of a
12 written request by either the injured employee, the employer, or
13 the carrier, order the injured employee to be evaluated by an
14 expert medical advisor. The injured employee and the employer or
15 carrier may agree on the health care provider to serve as an
16 expert medical advisor. If the parties do not agree, the judge
17 of compensation claims shall select an expert medical advisor
18 from the department's list of certified expert medical advisors.
19 If a certified medical advisor within the relevant medical
20 specialty is unavailable, the judge of compensation claims shall
21 appoint any otherwise qualified health care provider to serve as
22 an expert medical advisor without obtaining the department's
23 certification. The opinion of the expert medical advisor is
24 presumed to be correct unless there is clear and convincing
25 evidence to the contrary as determined by the judge of
26 compensation claims. The expert medical advisor appointed to
27 conduct the evaluation shall have free and complete access to
28 the medical records of the employee. An employee who fails to
29 report to and cooperate with such evaluation forfeits
30 entitlement to compensation during the period of failure to
31 report or cooperate.

32
33 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

34 And the directory clause is amended as follows:

35 Delete line 247

36 and insert:

37 (a), (c), and (f) of subsection (9) of section 440.13, Florida

38
39 ===== T I T L E A M E N D M E N T =====



563546

40 And the title is amended as follows:
41 Between lines 27 and 28
42 insert:
43 providing requirements for the selection of an expert
44 medical advisor;

By Senator Simpson

18-00585C-16

2016986__

1 A bill to be entitled
 2 An act relating to workers' compensation system
 3 administration; amending s. 440.02, F.S.; revising
 4 definitions; amending s. 440.021, F.S.; conforming a
 5 cross-reference; amending s. 440.05, F.S.; requiring
 6 members of limited liability companies to submit
 7 specified notices; deleting a required item to be
 8 listed on a notice of election to be exempt; revising
 9 specified rules regarding the maintenance of business
 10 records by an officer of a corporation; removing the
 11 requirement that the Department of Financial Services
 12 issue a specified stop-work order; amending s.
 13 440.107, F.S.; requiring that the department allow an
 14 employer who has not previously been issued an order
 15 of penalty assessment to receive a specified credit to
 16 be applied to the penalty; prohibiting the application
 17 of a specified credit unless the employer provides
 18 specified documentation and proof of payment to the
 19 department within a specified period; requiring the
 20 department to reduce the final assessed penalty by a
 21 specified percentage for employers who have not been
 22 previously issued a stop-work order or order of
 23 penalty assessment; revising the penalty calculation
 24 for the imputed weekly payroll for an employee;
 25 amending s. 440.13, F.S.; eliminating the
 26 certification requirements when an expert medical
 27 advisor is selected by a judge of compensation claims;
 28 amending s. 440.185, F.S.; deleting the requirement
 29 that employers notify the department within 24 hours

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

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2016986__

30 of any injury resulting in death; amending s. 440.42,
 31 F.S.; conforming a cross-reference; amending s.
 32 440.49, F.S.; revising definitions; revising the
 33 requirements for filing a claim; deleting the
 34 preferred worker program; deleting the notification
 35 fees on certain filed claims which supplement the
 36 Special Disability Trust Fund; conforming cross-
 37 references; amending s. 440.50, F.S.; conforming
 38 cross-references; amending s. 440.52, F.S.; deleting a
 39 fee for certain registration of insurance carriers;
 40 amending s. 624.4626, F.S.; conforming a cross-
 41 reference; providing an effective date.

42
 43 Be It Enacted by the Legislature of the State of Florida:

44
 45 Section 1. Subsection (9) and paragraph (c) of subsection
 46 (15) of section 440.02, Florida Statutes, are amended to read:
 47 440.02 Definitions.—When used in this chapter, unless the
 48 context clearly requires otherwise, the following terms shall
 49 have the following meanings:

50 (9) "Corporate officer" or "officer of a corporation" means
 51 any person who fills an office provided for in the corporate
 52 charter or articles of incorporation filed with the Division of
 53 Corporations of the Department of State or as authorized or
 54 required under part I of chapter 607. For persons engaged in the
 55 construction industry, the term "officer of a corporation"
 56 includes a member owning at least 10 percent of a limited
 57 liability company as defined in and organized pursuant to
 58 chapter 605.

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59 (15)

60 (c) "Employee" includes:

61 1. A sole proprietor, a member of a limited liability

62 company, or a partner who is not engaged in the construction

63 industry, devotes full time to the proprietorship, limited

64 liability company, or partnership, and elects to be included in

65 the definition of employee by filing notice thereof as provided

66 in s. 440.05.

67 2. All persons who are being paid by a construction

68 contractor as a subcontractor, unless the subcontractor has

69 validly elected an exemption as permitted by this chapter, or

70 has otherwise secured the payment of compensation coverage as a

71 subcontractor, consistent with s. 440.10, for work performed by

72 or as a subcontractor.

73 3. An independent contractor working or performing services

74 in the construction industry.

75 4. A sole proprietor who engages in the construction

76 industry and a partner or partnership that is engaged in the

77 construction industry.

78 Section 2. Section 440.021, Florida Statutes, is amended to

79 read:

80 440.021 Exemption of workers' compensation from chapter

81 120.—Workers' compensation adjudications by judges of

82 compensation claims are exempt from chapter 120, and no judge of

83 compensation claims shall be considered an agency or a part

84 thereof. Communications of the result of investigations by the

85 department pursuant to s. 440.185(3) ~~s. 440.185(4)~~ are exempt

86 from chapter 120. In all instances in which the department

87 institutes action to collect a penalty or interest which may be

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88 due pursuant to this chapter, the penalty or interest shall be

89 assessed without hearing, and the party against which such

90 penalty or interest is assessed shall be given written notice of

91 such assessment and shall have the right to protest within 20

92 days of such notice. Upon receipt of a timely notice of protest

93 and after such investigation as may be necessary, the department

94 shall, if it agrees with such protest, notify the protesting

95 party that the assessment has been revoked. If the department

96 does not agree with the protest, it shall refer the matter to

97 the judge of compensation claims for determination pursuant to

98 s. 440.25(2)-(5). Such action of the department is exempt from

99 the provisions of chapter 120.

100 Section 3. Subsections (1), (2), (3), (5), (10), and (11)

101 of section 440.05, Florida Statutes, are amended to read:

102 440.05 Election of exemption; revocation of election;

103 notice; certification.—

104 (1) Each corporate officer who elects not to accept the

105 provisions of this chapter or who, after electing such

106 exemption, revokes that exemption shall submit mail to the

107 department ~~in Tallahassee~~ notice to such effect in accordance

108 with a form to be prescribed by the department.

109 (2) Each sole proprietor, member of a limited liability

110 company, or partner who elects to be included in the definition

111 of "employee" or who, after such election, revokes that election

112 must submit mail to the department ~~in Tallahassee~~ notice to such

113 effect, in accordance with a form to be prescribed by the

114 department.

115 (3) ~~Each officer of a corporation who is engaged in the~~

116 ~~construction industry and who elects an exemption from this~~

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117 ~~chapter or who, after electing such exemption, revokes that~~
 118 ~~exemption must submit a notice to such effect to the department~~
 119 ~~on a form prescribed by the department.~~ The notice of election
 120 to be exempt must be electronically submitted to the department
 121 by the officer of a corporation who is allowed to claim an
 122 exemption as provided by this chapter and must list the name,
 123 ~~federal tax identification number,~~ date of birth, driver license
 124 number or Florida identification card number, and all certified
 125 or registered licenses issued pursuant to chapter 489 held by
 126 the person seeking the exemption, the registration number of the
 127 corporation filed with the Division of Corporations of the
 128 Department of State, and the percentage of ownership evidencing
 129 the required ownership under this chapter. The notice of
 130 election to be exempt must identify each corporation that
 131 employs the person electing the exemption and must list the
 132 social security number or federal tax identification number of
 133 each such employer and the additional documentation required by
 134 this section. In addition, the notice of election to be exempt
 135 must provide that the officer electing an exemption is not
 136 entitled to benefits under this chapter, must provide that the
 137 election does not exceed exemption limits for officers provided
 138 in s. 440.02, and must certify that any employees of the
 139 corporation whose officer elects an exemption are covered by
 140 workers' compensation insurance. Upon receipt of the notice of
 141 the election to be exempt, receipt of all application fees, and
 142 a determination by the department that the notice meets the
 143 requirements of this subsection, the department shall issue a
 144 certification of the election to the officer, unless the
 145 department determines that the information contained in the

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146 notice is invalid. The department shall revoke a certificate of
 147 election to be exempt from coverage upon a determination by the
 148 department that the person does not meet the requirements for
 149 exemption or that the information contained in the notice of
 150 election to be exempt is invalid. The certificate of election
 151 must list the name of the corporation listed in the request for
 152 exemption. A new certificate of election must be obtained each
 153 time the person is employed by a new or different corporation
 154 that is not listed on the certificate of election. A notice ~~copy~~
 155 of the certificate of election must be sent to each workers'
 156 compensation carrier identified in the request for exemption.
 157 Upon filing a notice of revocation of election, an officer who
 158 is a subcontractor or an officer of a corporate subcontractor
 159 must notify her or his contractor. Upon revocation of a
 160 certificate of election of exemption by the department, the
 161 department shall notify the workers' compensation carriers
 162 identified in the request for exemption.

163 (5) A notice given under subsection (1), subsection (2), or
 164 subsection (3) shall become effective when issued by the
 165 department or 30 days after it ~~an application for an exemption~~
 166 is received by the department, whichever occurs first. However,
 167 if an accident or occupational disease occurs less than 30 days
 168 after the effective date of the insurance policy under which the
 169 payment of compensation is secured or the date the employer
 170 qualified as a self-insurer, such notice is effective as of
 171 12:01 a.m. of the day following the date it is submitted ~~mailed~~
 172 to the department ~~in Tallahassee~~.

173 (10) Each officer of a corporation who is actively engaged
 174 in the construction industry and who elects an exemption from

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 175 this chapter shall maintain business records as specified by the
 176 department by rule, ~~which rules must include the provision that~~
 177 ~~any corporation with exempt officers engaged in the construction~~
 178 ~~industry must maintain written statements of those exempted~~
 179 ~~persons affirmatively acknowledging each such individual's~~
 180 ~~exempt status.~~

181 (11) Any corporate officer permitted by this chapter to
 182 claim an exemption must be listed on the records of this state's
 183 Secretary of State, Division of Corporations, as a corporate
 184 officer. ~~The department shall issue a stop-work order under s.~~
 185 ~~440.107(7) to any corporation who employs a person who claims to~~
 186 ~~be exempt as a corporate officer but who fails or refuses to~~
 187 ~~produce the documents required under this subsection to the~~
 188 ~~department within 3 business days after the request is made.~~

189 Section 4. Paragraphs (d) and (e) of subsection (7) of
 190 section 440.107, Florida Statutes, are amended to read:

191 440.107 Department powers to enforce employer compliance
 192 with coverage requirements.—

193 (7)

194 (d)1. In addition to any penalty, stop-work order, or
 195 injunction, the department shall assess against any employer who
 196 has failed to secure the payment of compensation as required by
 197 this chapter a penalty equal to 2 times the amount the employer
 198 would have paid in premium when applying approved manual rates
 199 to the employer's payroll during periods for which it failed to
 200 secure the payment of workers' compensation required by this
 201 chapter within the preceding 2-year period or \$1,000, whichever
 202 is greater.

203 a. For employers who have not been previously issued a

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 204 stop-work order or order of penalty assessment, the department
 205 must allow the employer to receive a credit for the initial
 206 payment of the estimated annual workers' compensation policy
 207 premium, as determined by the carrier, to be applied to the
 208 penalty. Before applying the credit to the penalty, the employer
 209 must provide the department with documentation reflecting that
 210 the employer has secured the payment of compensation pursuant to
 211 s. 440.38 and proof of payment to the carrier. In order for the
 212 department to apply a credit for an employer that has secured
 213 workers' compensation for leased employees by entering into an
 214 employee leasing contract with a licensed employee leasing
 215 company, the employer must provide the department with a written
 216 confirmation, by a representative from the employee leasing
 217 company, of the dollar or percentage amount attributable to the
 218 initial estimated workers' compensation expense for leased
 219 employees, and proof of payment to the employee leasing company.
 220 The credit may not be applied unless the employer provides the
 221 documentation and proof of payment to the department within 28
 222 days after service of the stop-work order or first order of
 223 penalty assessment upon the employer.

224 b. For employers who have not been previously issued a
 225 stop-work order or order of penalty assessment, the department
 226 must reduce the final assessed penalty by 25 percent if the
 227 employer has complied with administrative rules adopted pursuant
 228 to subsection (5) and has provided such business records to the
 229 department within 10 business days after the employer's receipt
 230 of the written request to produce business records.

231 c. The \$1,000 penalty shall be assessed against the
 232 employer even if the calculated penalty after the credit and 25

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233 percent reduction have ~~has~~ been applied is less than \$1,000.

234 2. Any subsequent violation within 5 years after the most
235 recent violation shall, in addition to the penalties set forth
236 in this subsection, be deemed a knowing act within the meaning
237 of s. 440.105.

238 (e) When an employer fails to provide business records
239 sufficient to enable the department to determine the employer's
240 payroll for the period requested for the calculation of the
241 penalty provided in paragraph (d), for penalty calculation
242 purposes, the imputed weekly payroll for each employee,
243 corporate officer, sole proprietor, or partner shall be the
244 statewide average weekly wage as defined in s. 440.12(2)
245 multiplied by 1.5 %.

246 Section 5. Paragraph (a) of subsection (7) and paragraphs
247 (a) and (f) of subsection (9) of section 440.13, Florida
248 Statutes, are amended to read:

249 440.13 Medical services and supplies; penalty for
250 violations; limitations.—

251 (7) UTILIZATION AND REIMBURSEMENT DISPUTES.—

252 (a) Any health care provider, ~~carrier, or employer~~ who
253 elects to contest the disallowance or adjustment of payment by a
254 carrier under subsection (6) must, within 45 days after receipt
255 of notice of disallowance or adjustment of payment, petition the
256 department to resolve the dispute. The petitioner must serve a
257 copy of the petition on the carrier and on all affected parties
258 by certified mail. The petition must be accompanied by all
259 documents and records that support the allegations contained in
260 the petition. Failure of a petitioner to submit such
261 documentation to the department results in dismissal of the

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262 petition.

263 (9) EXPERT MEDICAL ADVISORS.—

264 (a) The department shall certify expert medical advisors in
265 each specialty to assist the department ~~and the judges of~~
266 ~~compensation claims~~ within the advisor's area of expertise as
267 provided in this section. The department shall, in a manner
268 prescribed by rule, in certifying, recertifying, or decertifying
269 an expert medical advisor, consider the qualifications,
270 training, impartiality, and commitment of the health care
271 provider to the provision of quality medical care at a
272 reasonable cost. As a prerequisite for certification or
273 recertification, the department shall require, at a minimum,
274 that an expert medical advisor have specialized workers'
275 compensation training or experience under the workers'
276 compensation system of this state and board certification or
277 board eligibility.

278 (f) If the department or a judge of compensation claims
279 orders the services of an a-certified expert medical advisor to
280 resolve a dispute under this section, the party requesting such
281 examination must compensate the advisor for his or her time in
282 accordance with a schedule adopted by the department. If the
283 employee prevails in a dispute as determined in an order by a
284 judge of compensation claims based upon the expert medical
285 advisor's findings, the employer or carrier shall pay for the
286 costs of such expert medical advisor. If a judge of compensation
287 claims, upon his or her motion, finds that an expert medical
288 advisor is needed to resolve the dispute, the carrier must
289 compensate the advisor for his or her time in accordance with a
290 schedule adopted by the department. The department may assess a

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291 penalty not to exceed \$500 against any carrier that fails to
292 timely compensate an advisor in accordance with this section.

293 Section 6. Subsection (3) of section 440.185, Florida
294 Statutes, is amended to read:

295 440.185 Notice of injury or death; reports; penalties for
296 violations.—

297 ~~(3) In addition to the requirements of subsection (2), the~~
298 ~~employer shall notify the department within 24 hours by~~
299 ~~telephone or telegraph of any injury resulting in death.~~
300 ~~However, this special notice shall not be required when death~~
301 ~~results subsequent to the submission to the department of a~~
302 ~~previous report of the injury pursuant to subsection (2).~~

303 Section 7. Subsection (3) of section 440.42, Florida
304 Statutes, is amended to read:

305 440.42 Insurance policies; liability.—

306 (3) No contract or policy of insurance issued by a carrier
307 under this chapter shall expire or be canceled until at least 30
308 days have elapsed after a notice of cancellation has been sent
309 to the department and to the employer in accordance with the
310 provisions of s. 440.185(6) ~~s. 440.185(7)~~. For cancellation due
311 to nonpayment of premium, the insurer shall mail notification to
312 the employer at least 10 days prior to the effective date of the
313 cancellation. However, when duplicate or dual coverage exists by
314 reason of two different carriers having issued policies of
315 insurance to the same employer securing the same liability, it
316 shall be presumed that only that policy with the later effective
317 date shall be in force and that the earlier policy terminated
318 upon the effective date of the latter. In the event that both
319 policies carry the same effective date, one of the policies may

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320 be canceled instanter upon filing a notice of cancellation with
321 the department and serving a copy thereof upon the employer in
322 such manner as the department prescribes by rule. The department
323 may by rule prescribe the content of the notice of retroactive
324 cancellation and specify the time, place, and manner in which
325 the notice of cancellation is to be served.

326 Section 8. Paragraph (b) of subsection (2), paragraph (c)
327 of subsection (4), paragraph (c) of subsection (6), paragraphs
328 (c) and (d) of subsection (7), subsection (8), and paragraph (d)
329 of subsection (9) of section 440.49, Florida Statutes, are
330 amended to read:

331 440.49 Limitation of liability for subsequent injury
332 through Special Disability Trust Fund.—

333 (2) DEFINITIONS.—As used in this section, the term:

334 ~~(b) "Preferred worker" means a worker who, because of a~~
335 ~~permanent impairment resulting from a compensable injury or~~
336 ~~occupational disease, is unable to return to the worker's~~
337 ~~regular employment.~~

338
339 In addition to the definitions contained in this subsection, the
340 department may by rule prescribe definitions that are necessary
341 for the effective administration of this section.

342 (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL DISABILITY,
343 TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT CARE AFTER
344 OTHER PHYSICAL IMPAIRMENT.—

345 (c) *Temporary compensation and medical benefits;*
346 *aggravation or acceleration of preexisting condition or*
347 *circumstantial causation.*—If an employee who has a preexisting
348 permanent physical impairment experiences an aggravation or

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349 acceleration of the preexisting permanent physical impairment as
 350 a result of an injury or occupational disease arising out of and
 351 in the course of her or his employment, or suffers an injury as
 352 a result of a merger as defined in paragraph (2) (b) ~~(2) (e)~~, the
 353 employer shall provide all benefits provided by this chapter,
 354 but, subject to the limitations specified in subsection (7), the
 355 employer shall be reimbursed by the Special Disability Trust
 356 Fund created by subsection (9) for 50 percent of its payments
 357 for temporary, medical, and attendant care benefits.

358 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.—

359 (c) An employer's or carrier's right to apportionment or
 360 deduction pursuant to ss. 440.02(1), 440.15(5) (b), and
 361 440.151(1) (c) does not preclude reimbursement from such fund,
 362 except when the merger comes within the definition of paragraph
 363 (2) (b) ~~(2) (e)~~ and such apportionment or deduction relieves the
 364 employer or carrier from providing the materially and
 365 substantially greater permanent disability benefits otherwise
 366 contemplated in those paragraphs.

367 (7) REIMBURSEMENT OF EMPLOYER.—

368 (c) A proof of claim must be filed on each notice of claim
 369 on file as of June 30, 1997, within 1 year after July 1, 1997,
 370 or the right to reimbursement of the claim shall be barred. A
 371 notice of claim on file on or before June 30, 1997, may be
 372 withdrawn and refiled if, at the time refiled, the notice of
 373 claim remains within the limitation period specified in
 374 paragraph (a). Such refiling shall not toll, extend, or
 375 otherwise alter in any way the limitation period applicable to
 376 the withdrawn and subsequently refiled notice of claim. ~~Each~~
 377 ~~proof of claim filed shall be accompanied by a proof-of-claim~~

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378 ~~fee as provided in paragraph (9) (d)~~. The Special Disability
 379 Trust Fund shall, within 120 days after receipt of the proof of
 380 claim, serve notice of the acceptance of the claim for
 381 reimbursement. This paragraph shall apply to all claims
 382 notwithstanding the provisions of subsection (12).

383 ~~(d) Each notice of claim filed or refiled on or after July~~
 384 ~~1, 1997, must be accompanied by a notification fee as provided~~
 385 ~~in paragraph (9) (d)~~. A proof of claim must be filed within 1
 386 year after the date the notice of claim is filed or refiled,
 387 ~~accompanied by a proof-of-claim fee as provided in paragraph~~
 388 ~~(9) (d)~~, or the claim shall be barred. ~~The notification fee shall~~
 389 ~~be waived if both the notice of claim and proof of claim are~~
 390 ~~submitted together as a single filing~~. The Special Disability
 391 Trust Fund shall, within 180 days after receipt of the proof of
 392 claim, serve notice of the acceptance of the claim for
 393 reimbursement. This paragraph shall apply to all claims
 394 notwithstanding the provisions of subsection (12).

395 ~~(8) PREFERRED WORKER PROGRAM. The Department of Education~~
 396 ~~or administrator shall issue identity cards to preferred workers~~
 397 ~~upon request by qualified employees and the Department of~~
 398 ~~Financial Services shall reimburse an employer, from the Special~~
 399 ~~Disability Trust Fund, for the cost of workers' compensation~~
 400 ~~premium related to the preferred workers payroll for up to 3~~
 401 ~~years of continuous employment upon satisfactory evidence of~~
 402 ~~placement and issuance of payroll and classification records and~~
 403 ~~upon the employee's certification of employment. The Department~~
 404 ~~of Financial Services and the Department of Education may by~~
 405 ~~rule prescribe definitions, forms, and procedures for the~~
 406 ~~administration of the preferred worker program. The Department~~

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407 of Education may by rule prescribe the schedule for submission
408 of forms for participation in the program.

409 ~~(8)-(9) SPECIAL DISABILITY TRUST FUND.-~~

410 ~~(d) The Special Disability Trust Fund shall be supplemented~~
411 ~~by a \$250 notification fee on each notice of claim filed or~~
412 ~~refiled after July 1, 1997, and a \$500 fee on each proof of~~
413 ~~claim filed in accordance with subsection (7). Revenues from the~~
414 ~~fee shall be deposited into the Special Disability Trust Fund~~
415 ~~and are exempt from the deduction required by s. 215.20. The~~
416 ~~fees provided in this paragraph shall not be imposed upon any~~
417 ~~insurer which is in receivership with the department.~~

418 Section 9. Paragraph (b) of subsection (1) of section
419 440.50, Florida Statutes, is amended to read:

420 440.50 Workers' Compensation Administration Trust Fund.-

421 (1)

422 (b) The department is authorized to transfer as a loan an
423 amount not in excess of \$250,000 from such special fund to the
424 Special Disability Trust Fund established by s. 440.49(8) ~~or~~
425 ~~440.49(9)~~, which amount shall be repaid to the said special fund
426 in annual payments equal to not less than 10 percent of moneys
427 received for the such Special Disability Trust Fund.

428 Section 10. Subsection (1) of section 440.52, Florida
429 Statutes, is amended to read:

430 440.52 Registration of insurance carriers; notice of
431 cancellation or expiration of policy; suspension or revocation
432 of authority.-

433 (1) Each insurance carrier who desires to write workers'
434 ~~such~~ compensation insurance in compliance with this chapter
435 shall be required, before writing such insurance, to register

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436 with the department and pay a registration fee of \$100. This
437 shall be deposited by the department in the fund created by s.
438 440.50.

439 Section 11. Subsection (2) of section 624.4626, Florida
440 Statutes, is amended to read:

441 624.4626 Electric cooperative self-insurance fund.-

442 (2) A self-insurance fund that meets the requirements of
443 this section is subject to the assessments set forth in ss.
444 440.49(8) ~~ss. 440.49(9)~~, 440.51(1), and 624.4621(7), but is not
445 subject to any other provision of s. 624.4621 and is not
446 required to file any report with the department under s.
447 440.38(2)(b) which is uniquely required of group self-insurer
448 funds qualified under s. 624.4621.

449 Section 12. This act shall take effect October 1, 2016.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON

18th District

December 16, 2015

Honorable Lizbeth Benacquisto
Committee on Banking and Insurance
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Benacquisto,

Please place Senate Bill 986 relating to Workers' Compensation System Administration, on the next Banking and Insurance Committee agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

CC: James Knudson, Staff Director

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-16

Meeting Date

986

Bill Number (if applicable)

756866

Amendment Barcode (if applicable)

Topic Workers' Compensation

Name Tom Stahl

Job Title Executive Director

Address 116 S. Monroe St.

Street

Tallahassee FL 32301

City

State

Zip

Phone 850-681-6265

Email tstahl@fuba.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FUBA- Florida United Businesses Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

986

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Gerald Weste

Job Title _____

Address 101 E College
Street

Phone 850 445 7256

Tall FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

211116

Meeting Date

986

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Tammy Peardue

Job Title GENERAL COUNSEL

Address 516 N Adams St. TLH 32301

Phone 850-224-7173

Street

TLH

City

FL

State

32301

Zip

Email tpeardue@aif.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AIF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

986 (SIMPSON)
Bill Number (if applicable)

Topic W/C

Amendment Barcode (if applicable)

Name PAUL ANDERSON

Job Title _____

Address 1584 METROPOLITAN BLVD

Phone 850.894.3000

Street

TALL.

City

FL

State

32308

Zip

Email paand@justiceadvocates.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA WORKERS' ADVOCATES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/2016

Meeting Date

SB 986

Bill Number (if applicable)

Topic SB 986

Amendment Barcode (if applicable)

Name Elizabeth Boyd

Job Title Legislative Affairs Director

Address 400 N Monroe St

Phone 850-413-2863

Street

Tallahassee

FL

32399

Email elizabeth.boyd@myfloridacfo.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing CFO Atwater

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

0The 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 1142

INTRODUCER: Banking and Insurance Committee and Senator Hays

SUBJECT: Treatments for Stable Patients

DATE: February 3, 2016

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1142 amends the Insurance Code to allow an insured individual living with a complex or chronic medical condition or rare disease to continue to receive their brand drugs at a preferred cost for the calendar year. Currently, health insurers and pharmacy benefit managers often change their prescription drug formularies during the year as they respond to new drugs becoming available or changes in prices by drug manufacturers. As a result, certain prescription drugs may become more costly or unavailable to consumers during a plan year when they are unable to switch to a different health insurance plan.

The bill prohibits any pharmacy benefit manager (PBM) and any individual or group health insurance policy or HMO contract from limiting or excluding coverage for a drug for an insured with a complex or chronic medical condition or a rare disease if:

- The drug was previously approved for coverage by the insurer for a medical condition or disease; and
- The prescribing provider continues to prescribe the drug for the medical condition or disease; and the drug is appropriately prescribed and considered safe and effective for treating the insured's medical condition.

For any drug used to treat a complex or chronic medical condition or a rare disease that has been previously approved for coverage, the bill prohibits a health insurer, HMO or PBM from engaging any of the following activities, except during open enrollment periods:

- Placing limitations on the maximum coverage of prescription drug benefits;

- Increasing the out-of-pocket costs paid by the insured for the drug; and
- Moving the drug to a disadvantaged tier.

The Division of State Group Insurance indicates that the bill will have an indeterminate negative fiscal impact.

II. Present Situation:

Regulation of Insurers and Health Maintenance Organizations in Florida

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, HMOs, and other risk-bearing entities.¹ The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the agency.² As part of the certification process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.³ The OIR does not regulate or license pharmacy benefit managers.

Florida' State Group Insurance Program

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance, administers the state group health insurance program under a cafeteria plan consistent with section 125, Internal Revenue Code. To administer the state group health insurance program, the DMS contracts with third party administrators for self-insured health plans, insured HMOs, and a PBM for the state employees' self-insured prescription drug program pursuant to s. 110.12315, F.S.

The state employees' self-insured prescription drug program has three cost-share categories for members: generic drugs, preferred brand name drugs (those brand name drugs on the preferred drug list), and non-preferred brand name drugs (those brand name drugs not on the preferred drug list). Contractually the PBM for the state employees' self-insured prescription drug program updates the preferred drug list quarterly as brand drugs enter the market and as the PBM negotiates pricing, including rebates with manufacturers.

Generic drugs are the least expensive and have the lowest member cost share, preferred brand name drugs have the middle cost share, and non-preferred brand name drugs are the most expensive and have the highest member cost share. Generally, prescriptions written for a brand name drug, preferred or non-preferred, will be substituted with a generic drug when available. If the prescribing provider states on the prescription that the brand name drug is "medically necessary" over the generic equivalent, the member will pay only the brand name (preferred or non-preferred) cost share. If the member requests the brand name drug over the generic equivalent then the member will pay the brand name (preferred or non-preferred) cost share plus the difference between the cost of the generic drug and the brand name drug.

¹ Section 20.121(3)(a)1., F.S.

² Section 641.21(1), F.S.

³ Section 641.495, F.S.

The program has no formulary management or other prescription drug management protocols, covers all federal legend drugs (open formulary) for covered medical conditions, and employs very limited utilization review and clinical review for traditional or specialty prescription drugs. Specialty drugs are high-cost prescription medications used to treat complex, chronic conditions such as cancer, rheumatoid arthritis and multiple sclerosis. Specialty drugs often require special handling (e.g., refrigeration during shipping) and administration (such as injection or infusion).

The federal out-of-pocket limit applies to members of the state group self-insured health plans and insured HMOs, all of which include prescription drug coverage. Copayments (and coinsurance for high deductible plans) for each drug tier are the same for all members, without preference to health status, as follows:

Drug Tier	Retail – Up to 30-Day Supply	Retail and Mail – Up to 90-Day Supply and Specialty Medications
Generic	\$7	\$14
Preferred Brand	\$30	\$60
Non-Preferred Brand	\$50	\$100

The program typically makes benefits changes on a plan year basis, which is Jan. 1 through Dec. 31.

Federal Patient Protection and Affordable Care Act

Health Insurance Reforms

The federal Patient Protection and Affordable Care Act (PPACA) was signed into law on March 23, 2010.⁴ The PPACA provides fundamental changes to the U.S. health care system by requiring health insurers to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. The PPACA imposes many insurance requirements including required essential health benefits, rating and underwriting standards, review of rate increases, and internal and external appeals of adverse benefit determinations.⁵ Section 1302 of the PPACA requires health plans that are required to provide coverage of essential health benefits (EHB), meet cost-sharing limits, and actuarial value requirements. The law directs that EHBs cover at least 10 specified categories, which includes prescription drugs.⁶

⁴ The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010. Pub. L. 111-148.

⁵ Most of the insurance regulatory provisions in PPACA amend Title XXVII of the Public Health Service Act (PHSA), (42 U.S.C. 300gg *et seq.*).

⁶ See <https://www.cms.gov/cciiio/resources/data-resources/ehb.html> (last visited Jan.14, 2016) for Florida’s benchmark plan.

Prescription Drug Coverage

Currently, for purposes of a health plan complying with the essential health benefits, insurers and HMOs must include in their formulary drug list the greater of one drug for each U.S. Pharmacopeia (USP) category and class; or the same number of drugs in each USP category and class as the state's essential health benefit (EHB) benchmark plan. For plan years beginning on or after January 1, 2017, plans must also use a P&T committee process that meets certain requirements. The P&T committee must design formularies using scientific evidence that will include consideration of safety and efficacy, cover a range of drugs in a broad distribution of therapeutic categories and classes, and provide access to drugs that are included in broadly accepted treatment guidelines.⁷

Formulary Drug List

The regulations require a health plan must publish an up-to-date and complete list of all covered drugs on its formulary drug list, including any tiered structure and any restrictions on the manner in which a drug can be obtained, in a manner that is easily accessible to plan enrollees, prospective enrollees, the state, the marketplace, HHS, and the public. Additionally, insurers and HMOs must also make this information available in a standard-readable format to provide the opportunity for third parties to create resources that aggregate information on different plans.

Drug Exceptions Process

Under current HHS regulations, plans providing EHBs must have procedures in place that allow an enrollee to request and gain access to clinically appropriate drugs not included on the plan's formulary drug list. Such procedures must include a process to request an expedited review based on exigent circumstances. Under this expedited process, the issuer must make its coverage determination no later than 24 hours after it receives the request. This requirement, commonly referred to as the "exceptions process," applies to drugs that are not included on the plan's formulary drug list. For plan years beginning in 2016, these processes must also include certain processes and timeframes for the standard review process, and have an external review process if the internal review request is denied. The costs of the non-formulary drug provided through the exceptions process count towards the annual limitation on cost sharing and actuarial value of the plan.⁸

Proposed HHS Notice of Benefit and Payment Parameters for 2017

According to the OIR, the tentative CMS deadline for insurers and HMOs for the submission of 2017 rates and forms to CMS and the OIR is May 11, 2016.⁹

⁷ 45 CFR s. 156.122.

⁸ 45 C.F.R. s. 156.122(c). The drug exception process is distinct from the coverage appeals process, which applies if an enrollee receives an adverse benefit determination for a drug that is included on the plan's formulary drug list. The coverage appeals process has separate requirements for its external review process and allows for a secondary level of internal review before the final internal review determination for group plans. [45 C.F.R. s. 147.136]

⁹ Center for Consumer Information and Insurance Oversight (CCIIO), Centers for Medicare & Medicaid Services (CMS), *Draft 2017 Letter to Issuers in the Federally-facilitated Marketplaces* (Dec. 23, 2015).

Prescription Drug Cost Containment

Private-sector entities that offer prescription drug insurance coverage, such as employers, labor unions, and managed care companies, often hire pharmacy benefit managers (PBMs) to manage these insurance benefits. The PBMs engage in many activities to manage their clients' prescription drug insurance coverage. The PBMs assemble networks of retail pharmacies so that a plan sponsor's members can fill prescriptions easily and in multiple locations by just paying a co-payment amount. The PBMs consult with plan sponsors to decide which drugs a plan sponsor will provide insurance coverage to treat each medical condition. The PBM manages this list of preferred drug products (formulary) for each of its plan sponsor clients. Consumers with insurance coverage are provided incentives, such as low copayments, to use formulary drugs.

Due to increasing health care expenditures, economic and financial uncertainties, as well as the development of new, more expensive technologies, insurers continue to look for cost containment methods. Further, greater payer demand for expenditure reductions will increase the pressure for therapeutic substitution in responding patients. However, research notes that the biologic therapy medications of some patients are being switched for nonclinical reasons, despite the lack of data to support this practice and an abundance of data demonstrating clinically meaningful differences among biologics.¹⁰

III. Effect of Proposed Changes:

Sections 1 and 2 create s. 627.42392 and subsection (44) of s. 641.31, F.S., and **Section 3** amends s. 627.6699, F.S.

The bill defines the term, "complex or chronic medical condition," as a physical, behavioral or development condition that does not have a known cure or that can be severely debilitating or fatal if left untreated or undertreated. The term, "rare disease," is defined to have the same meaning as provided in 42 U.S.C. s. 287a-1, a disease or condition that affects less than 200,000 persons in the United States.

The bill prohibits any pharmacy benefit manager (PBM) and any individual or group health insurance policy or HMO contract providing major medical coverage from limiting or excluding coverage for a drug for an insured with a complex or chronic medical condition or a rare disease if:

- The drug was previously approved for coverage by the insurer for a medical condition or disease of the insured,
- The prescribing provider continues to prescribe the drug for the medical condition or disease, and
- The drug is appropriately prescribed and considered safe and effective for treatment of the insured's medical condition or rare disease.

In addition, for any drug prescribed to an insured with a complex or chronic medical condition or a rare disease, the bill prohibits a health insurer, HMO or PBM from engaging any of the following actions, except during open enrollment periods:

¹⁰ http://www.medscape.com/viewarticle/768031_5 (last visited Jan. 29, 2016).

- Placing limitations on the maximum coverage of prescription drug benefits,
- Increasing the out-of-pocket costs paid by the insured for the drug, and
- Moving the drug to a disadvantaged tier.

These provisions would not apply to a grandfathered health plan or to excepted benefits.

Section 4 of the bill is effective January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill allows insured individuals living with complex, chronic medical condition or rare diseases to continue to receive their brand drugs at a preferred cost for the calendar year. According to advocates of the bill, the bill will allow an insured individual who has been previously approved for a specific medication that is effective for stabilizing the patient to continue using the medication as long as he or she remains covered by the health plan.

C. Government Sector Impact:

Division of State Group Insurance

The bill will have an indeterminate negative fiscal impact.¹¹ The DMS indicates that the bill would allow an insured individual living with a complex or chronic medical condition or rare disease to continue to receive all their brand drugs at a “preferred” cost share throughout a calendar year, even when the PBM negotiates better pricing and rebates for interchangeable clinically appropriate brand drugs.

¹¹ Department of Management Services, *2016 Agency Legislative Bill Analysis* (Jan. 4, 2016) (on file with Senate Committee on Banking and Insurance).

VI. Technical Deficiencies:

The provisions of the bill amend the Insurance Code and apply to insurers, HMOs, and pharmacy benefit managers. However, pharmacy benefit managers are not regulated under the Insurance Code.

The definition of the term, “complex or chronic conditions” may be difficult to interpret and implement. It is unclear which specific conditions would meet the definition.

VII. Related Issues:

According to the Office of Insurance Regulation, this bill partially addresses a consumer issue where an individual selects a plan based on the plan providing certain prescription drug benefits and the plan then changes its prescription drug benefits during the plan year. Under these types of situations, a consumer may face unexpectedly higher costs with an inability to switch to a different health insurance plan until the next open enrollment period. While an individual with a complex or chronic medical condition or rare disease may be more likely than the average person to select a health insurance plan based on the particular drug benefits of the plan, this issue is not limited to those with a complex or chronic medical condition or rare disease. As a result, the bill may be considered discriminatory as it seeks only to protect those with a complex or chronic medical condition or rare disease rather than all medical conditions.¹²

Pursuant to federal regulations, a group health plan is not required to provide coverage for any particular benefits to any group of similarly situated individuals. However, benefits provided under a plan must be uniformly available to all similarly situated individuals. Likewise, any restriction on a benefit or benefits must apply uniformly to all similarly situated individuals and must not be directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries (determined based on all the relevant facts and circumstances).¹³

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.6699 and 641.31.

This bill creates section 627.42392 of the Florida Statutes.

¹² Office of Insurance Regulation, *2016 Agency Legislative Bill Analysis* (Dec. 29, 2015) (on file with Senate Committee on Banking and Insurance).

¹³ 45 C.F.R. s. 146.121. For example, a plan may limit or exclude benefits in relation to a specific disease or condition, limit or exclude benefits for certain types of treatments or drugs, or limit or exclude benefits based on a determination of whether the benefits are experimental or not medically necessary, but only if the benefit limitation or exclusion applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries based on any health factor of the participants or beneficiaries.

IX. Additional Information:

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

CS by Banking and Insurance on February 1, 2016:

The CS provides technical, conforming changes and revises the effective date of the bill from January 1, 2017, to January 1, 2018.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.42392, Florida Statutes, is created
to read:

627.42392 Continuity of care for medically stable
patients.—

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

(a) "Complex or chronic medical condition" means a



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11 physical, behavioral, or developmental condition that does not
12 have a known cure or that can be severely debilitating or fatal
13 if left untreated or undertreated.

14 (b) "Rare disease" has the same meaning as in the Public
15 Health Service Act, 42 U.S.C. s. 287a-1.

16 (2) A pharmacy benefits manager or an individual or group
17 insurance policy that is delivered, issued for delivery,
18 renewed, amended, or continued in this state and that provides
19 medical, major medical, or similar comprehensive coverage must
20 continue to cover a drug for an insured with a complex or
21 chronic medical condition or a rare disease if:

22 (a) The drug was previously covered by the insurer for a
23 medical condition or disease of the insured; and

24 (b) The prescribing provider continues to prescribe the
25 drug for the medical condition or disease, provided that the
26 drug is appropriately prescribed and neither of the following
27 has occurred:

28 1. The United States Food and Drug Administration has
29 issued a notice, guidance, warning, announcement, or any other
30 statement about the drug which calls into question the clinical
31 safety of the drug; or

32 2. The manufacturer of the drug has notified the United
33 States Food and Drug Administration of any manufacturing
34 discontinuance or potential discontinuance as required by s.
35 506C of the Federal Food Drug and Cosmetic Act, 21 U.S.C. s.
36 356c.

37 (3) With respect to a drug for an insured with a complex or
38 chronic medical condition or a rare disease which meets the
39 conditions of paragraphs (2) (a) and (2) (b), except during open



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40 enrollment periods, a pharmacy benefits manager or an individual
41 or group insurance policy may not:

42 (a) Set forth, by contract, limitations on maximum coverage
43 of prescription drug benefits;

44 (b) Subject the insured to increased out-of-pocket costs;
45 or

46 (c) Move a drug for an insured to a more restrictive tier,
47 if an individual or group insurance policy or a pharmacy
48 benefits manager uses a formulary with tiers.

49 (4) This section does not apply to a grandfathered health
50 plan as defined in s. 627.402, or to benefits set forth in s.
51 627.6561(5)(b), (c), (d), and (e).

52 Section 2. Paragraph (e) of subsection (5) of section
53 627.6699, Florida Statutes, is amended to read:

54 627.6699 Employee Health Care Access Act.—

55 (5) AVAILABILITY OF COVERAGE.—

56 (e) All health benefit plans issued under this section must
57 comply with the following conditions:

58 1. For employers who have fewer than two employees, a late
59 enrollee may be excluded from coverage for no longer than 24
60 months if he or she was not covered by creditable coverage
61 continually to a date not more than 63 days before the effective
62 date of his or her new coverage.

63 2. Any requirement used by a small employer carrier in
64 determining whether to provide coverage to a small employer
65 group, including requirements for minimum participation of
66 eligible employees and minimum employer contributions, must be
67 applied uniformly among all small employer groups having the
68 same number of eligible employees applying for coverage or



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69 receiving coverage from the small employer carrier, except that
70 a small employer carrier that participates in, administers, or
71 issues health benefits pursuant to s. 381.0406 which do not
72 include a preexisting condition exclusion may require as a
73 condition of offering such benefits that the employer has had no
74 health insurance coverage for its employees for a period of at
75 least 6 months. A small employer carrier may vary application of
76 minimum participation requirements and minimum employer
77 contribution requirements only by the size of the small employer
78 group.

79 3. In applying minimum participation requirements with
80 respect to a small employer, a small employer carrier shall not
81 consider as an eligible employee employees or dependents who
82 have qualifying existing coverage in an employer-based group
83 insurance plan or an ERISA qualified self-insurance plan in
84 determining whether the applicable percentage of participation
85 is met. However, a small employer carrier may count eligible
86 employees and dependents who have coverage under another health
87 plan that is sponsored by that employer.

88 4. A small employer carrier shall not increase any
89 requirement for minimum employee participation or any
90 requirement for minimum employer contribution applicable to a
91 small employer at any time after the small employer has been
92 accepted for coverage, unless the employer size has changed, in
93 which case the small employer carrier may apply the requirements
94 that are applicable to the new group size.

95 5. If a small employer carrier offers coverage to a small
96 employer, it must offer coverage to all the small employer's
97 eligible employees and their dependents. A small employer



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98 carrier may not offer coverage limited to certain persons in a
99 group or to part of a group, except with respect to late
100 enrollees.

101 6. A small employer carrier may not modify any health
102 benefit plan issued to a small employer with respect to a small
103 employer or any eligible employee or dependent through riders,
104 endorsements, or otherwise to restrict or exclude coverage for
105 certain diseases or medical conditions otherwise covered by the
106 health benefit plan.

107 7. An initial enrollment period of at least 30 days must be
108 provided. An annual 30-day open enrollment period must be
109 offered to each small employer's eligible employees and their
110 dependents. A small employer carrier must provide special
111 enrollment periods as required by s. 627.65615.

112 8. A small employer carrier must provide continuity of care
113 for medically stable patients as required by s. 627.42392.

114 Section 3. Subsection (44) is added to section 641.31,
115 Florida Statutes, to read:

116 641.31 Health maintenance contracts.-

117 (44) (a) As used in this subsection, the term:

118 1. "Complex or chronic medical condition" means a physical,
119 behavioral, or developmental condition that does not have a
120 known cure or that can be severely debilitating or fatal if left
121 untreated or undertreated.

122 2. "Rare disease" has the same meaning as in the Public
123 Health Service Act, 42 U.S.C. s. 287a-1.

124 (b) A pharmacy benefits manager or a health maintenance
125 contract that is delivered, issued for delivery, renewed,
126 amended, or continued in this state and that provides medical,



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127 major medical, or similar comprehensive coverage must continue
128 to cover a drug for a subscriber with a complex or chronic
129 medical condition or a rare disease if:

130 1. The drug was previously covered by the health
131 maintenance organization for a medical condition or disease of
132 the subscriber; and

133 2. The prescribing provider continues to prescribe the drug
134 for the medical condition or disease, provided that the drug is
135 appropriately prescribed and neither of the following has
136 occurred:

137 a. The United States Food and Drug Administration has
138 issued a notice, guidance, warning, announcement, or any other
139 statement about the drug which calls into question the clinical
140 safety of the drug; or

141 b. The manufacturer of the drug has notified the United
142 States Food and Drug Administration of any manufacturing
143 discontinuance or potential discontinuance as required by s.
144 506C of the Federal Food Drug and Cosmetic Act, 21 U.S.C. s.
145 356c.

146 (c) With respect to a drug for a subscriber with a complex
147 or chronic medical condition or a rare disease which meets the
148 conditions of subparagraphs (b)1. and (b)2., except during open
149 enrollment periods, a pharmacy benefits manager or a health
150 maintenance contract may not:

151 1. Set forth, by contract, limitations on maximum coverage
152 of prescription drug benefits;

153 2. Subject the subscriber to increased out-of-pocket costs;
154 or

155 3. Move a drug for a subscriber to a more restrictive tier,



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156 if a health maintenance contract or a pharmacy benefits manager
157 uses a formulary with tiers.

158 (d) This section does not apply to a grandfathered health
159 plan as defined in s. 627.402.

160 Section 4. This act shall take effect January 1, 2018.

161
162 ===== T I T L E A M E N D M E N T =====

163 And the title is amended as follows:

164 Delete everything before the enacting clause
165 and insert:

166 A bill to be entitled
167 An act relating to treatments for stable patients;
168 creating s. 627.42392, F.S.; defining terms; requiring
169 a pharmacy benefits manager or a specified individual
170 or group insurance policy to continue to cover a drug
171 for specified insureds under certain circumstances;
172 prohibiting certain actions by a pharmacy benefits
173 manager or an individual or group policy with respect
174 to a drug for a certain insured except under certain
175 circumstances; providing applicability; amending s.
176 627.6699, F.S.; expanding a list of conditions that
177 certain health benefit plans must comply with;
178 amending s. 641.31, F.S.; defining terms; requiring a
179 pharmacy benefits manager or a specified health
180 maintenance contract to continue to cover a drug for
181 specified subscribers under certain circumstances;
182 prohibiting certain actions by a pharmacy benefits
183 manager or a health maintenance contract with respect
184 to a drug for a certain subscriber except under



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185
186

certain circumstances; providing applicability;
providing an effective date.

By Senator Hays

11-00928D-16

20161142__

A bill to be entitled

An act relating to treatments for stable patients; creating s. 627.6465, F.S.; defining terms; prohibiting an insurer or a pharmacy benefits manager from limiting or excluding coverage for a drug for an insured with a certain medical condition under certain conditions; prohibiting certain additional actions with respect to the drug by the insurer or pharmacy benefits manager under the insurance policy; providing an exception; amending s. 627.662, F.S.; providing applicability; amending s. 641.31, F.S.; defining terms; prohibiting a health maintenance contract or a pharmacy benefits manager from limiting or excluding coverage for a drug for a subscriber with a certain medical condition under certain conditions; prohibiting certain additional actions with respect to the drug by the health maintenance contract or pharmacy benefits manager; providing an exception; providing an effective date.

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

Section 1. Section 627.6465, Florida Statutes, is created to read:

627.6465 Continuity of care for medically stable patients.-

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

(a) "Complex or chronic medical condition" means a physical, behavioral, or developmental condition that does not have a known cure or that can be severely debilitating or fatal if left untreated or undertreated.

(b) "Rare medical condition" means a disease or condition that affects fewer than 200,000 individuals in the United

Page 1 of 4

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

11-00928D-16

20161142__

States, or approximately 1 in 1,500 individuals worldwide.

(2) A pharmacy benefits manager or an individual or group insurance policy that is delivered, issued for delivery, renewed, amended, or continued in this state and that provides medical, major medical, or similar comprehensive coverage may not limit or exclude coverage for a drug for an insured with a complex or chronic medical condition or a rare medical condition if:

(a) The drug was previously approved for coverage by the insurer for a medical condition of the insured; and

(b) The prescribing provider continues to prescribe the drug for the medical condition, provided that the drug is appropriately prescribed and is considered safe and effective for treating the insured's medical condition.

(3) With respect to a drug for an insured with a complex or chronic medical condition or a rare medical condition which meets the conditions of paragraphs (2) (a) and (2) (b), except during open enrollment periods, a pharmacy benefits manager or an individual or group insurance policy may not:

(a) Set forth, by contract, limitations on maximum coverage of prescription drug benefits;

(b) Subject the insured to increased out-of-pocket costs;
or

(c) Move a drug for an insured to a disadvantaged tier, if an individual or group insurance policy or a pharmacy benefits manager uses a formulary with tiers.

(4) This section does not prohibit an insurer or a pharmacy benefits manager, by contract, written policy or procedure, or any other agreement or course of conduct, from requiring a

Page 2 of 4

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

11-00928D-16

20161142__

62 pharmacist to effect generic substitutions of prescription
63 drugs.

64 Section 2. Subsection (15) is added to section 627.662,
65 Florida Statutes, to read:

66 627.662 Other provisions applicable.—The following
67 provisions apply to group health insurance, blanket health
68 insurance, and franchise health insurance:

69 (15) Section 627.6465, relating to continuity of care for
70 medically stable patients.

71 Section 3. Subsection (44) is added to section 641.31,
72 Florida Statutes, to read:

73 641.31 Health maintenance contracts.—

74 (44) (a) As used in this subsection, the term:

75 1. "Complex or chronic medical condition" means a physical,
76 behavioral, or developmental condition that does not have a
77 known cure or that can be severely debilitating or fatal if left
78 untreated or undertreated.

79 2. "Rare medical condition" means a disease or condition
80 that affects fewer than 200,000 individuals in the United
81 States, or approximately 1 in 1,500 individuals worldwide.

82 (b) A pharmacy benefits manager or a health maintenance
83 contract that is delivered, issued for delivery, renewed,
84 amended, or continued in this state and that provides medical,
85 major medical, or similar comprehensive coverage may not limit
86 or exclude coverage for a drug for a subscriber with a complex
87 or chronic medical condition or a rare medical condition if:

88 1. The drug was previously approved for coverage by the
89 health maintenance organization for a medical condition of the
90 subscriber; and

11-00928D-16

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91 2. The prescribing provider continues to prescribe the drug
92 for the medical condition, provided that the drug is
93 appropriately prescribed and is considered safe and effective
94 for treating the subscriber's medical condition.

95 (c) With respect to a drug for a subscriber with a complex
96 or chronic medical condition or a rare medical condition which
97 meets the conditions of subparagraphs (b)1. and (b)2., except
98 during open enrollment periods, a pharmacy benefits manager or a
99 health maintenance contract may not:

100 1. Set forth, by contract, limitations on maximum coverage
101 of prescription drug benefits;

102 2. Subject the subscriber to increased out-of-pocket costs;
103 or

104 3. Move a drug for a subscriber to a disadvantaged tier, if
105 a health maintenance contract or a pharmacy benefits manager
106 uses a formulary with tiers.

107 (d) This subsection does not prohibit a health maintenance
108 organization or a pharmacy benefits manager, by contract,
109 written policy or procedure, or any other agreement or course of
110 conduct, from requiring a pharmacist to effect generic
111 substitutions of prescription drugs.

112 Section 4. This act shall take effect January 1, 2017.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining, *Alternating Chair*

SENATOR ALAN HAYS

11th District

MEMORANDUM

To: Senator Lizbeth Benacquisto, Chair
Committee on Banking and Insurance
CC: James Knudson, Staff Director
Sheri Green, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 1142 Treatments for Stable Patients

Date: January 5, 2015

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

1142 ~~rad~~

Bill Number (if applicable)

strike all

Amendment Barcode (if applicable)

Topic Patient Stability

Name Doug Bell

Job Title _____

Address 101 N. Monroe St.

Street

Phone 681-4270

Tell

City

State

Zip

Email douglas.bell@pip.

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing FL Chapter American Academy of Pediatrics

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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2/1/16
Meeting Date

1142
Bill Number (if applicable)

Topic TREATMENT FOR STABLE PATIENTS

Amendment Barcode (if applicable)

Name DR. ROBERT W LEVINSKY

Job Title PHYSICIAN / RHEUMATOLOGIST

Address 646 VIRGINIA ST

Phone 727-734-6631

Street

DUNEDIN FL 34698

Email rlevin@msn.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Society of Rheumatology

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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2/1/16
Meeting Date

1142
Bill Number (if applicable)

Topic Patient Stability Act

Amendment Barcode (if applicable)

Name Spencer Lieb

Job Title HIV AIDS Research Coordinator

Address 410 Victory Garden Dr. #127

Phone 850-345-5049

Street

Tallahassee

City

FL

State

32301

Zip

Email s/lieb@comcast.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The AIDS Institute

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

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APPEARANCE RECORD

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2-1-16

Meeting Date

1142 (Sen. Hays)
Bill Number (if applicable)

Topic Treatment of Stable Patients

Amendment Barcode (if applicable)

Name FELY CURVA, Ph.D.

Job Title Partner, Curva i Associates LLC

Address 1212 Piedmont Dr.
Street

Phone (850) 508-2252

Tallahassee
City

FL
State

32312
Zip

Email curva@mindspring.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Budd Bell Clearinghouse on Human Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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2/1/16

Meeting Date

1142

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Chris Muland

Job Title

Address 1000 Riverside Ave

Phone

Street

Jacksonville, FL 32204

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing Florida Gastroenterologic Society

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

1142
Bill Number (if applicable)

Topic Treatment for Stable Patients

Amendment Barcode (if applicable)

Name Mary Thomas

Job Title Assistant General Counsel

Address 1430 Piedmont Dr E

Phone 850 224 6496

TIH FL 32308
City State Zip

Email MThomas@flmedical.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Medical Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

1192

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name John Langdon, MD

Job Title Governor FLACP

Address 942 Poinciana Ln

Phone 407-415-6057

Street

Winter Park FL 32789

Email slangdon69@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Chapter, American College of Physicians

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

1142
Bill Number (if applicable)

Topic Treatment of Patients

Amendment Barcode (if applicable)

Name Arthur Rosenberg

Job Title Attorney

Address 3000 Biscayne Blvd

Phone 850-509-2085

Street

Miami FL 33137

City

State

Zip

Email arthur@floridalegal.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Floridalegal Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

Hays

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-16
Meeting Date

SB 1142
Bill Number (if applicable)

Topic Treatments for Stable Patients Amendment Barcode (if applicable)

Name Margaret S. Hooper

Job Title Public Policy Coordinator

Address 124 Marriott Drive # 203
Street

Phone 850-921-7263

Tallahassee FL 32301
City State Zip

Email MargaretD@FDDC.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Developmental Disabilities Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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2-1-2016
Meeting Date

SB1142
SB780
Bill Number (if applicable)

Topic AH Stable Patients

Amendment Barcode (if applicable)

Name Joy Ryan

Job Title _____

Address _____
Street

Phone 425-4000

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AHIIP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16

Meeting Date

1142
~~280~~

Bill Number (if applicable)

Topic Pharmacy Networks

Amendment Barcode (if applicable)

Name Abigail Stoddard

Job Title Pharmacist

Address 4434 Pillsbury Ave S

Phone 612 616 1431

Street

Minneapolis MN 55419

City

State

Zip

Email astoddard@primetherapeutics.com

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

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 1402

INTRODUCER: Senator Simmons

SUBJECT: Ratification of Department of Financial Services Rules

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	_____	_____	<u>FP</u>	_____

I. Summary:

Florida's Workers' Compensation law requires that the provider reimbursement manuals setting maximum reimbursement rates for medical services must be updated every 3 years. Due to the Legislature's not ratifying the most recent 2011 manual, the current manual dates from 2008. Since the 2015 Legislature adjourned, the Department of Financial Services has adopted amendments to the rule incorporating by reference the Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition (2015 Manual). The 2015 Manual sets out the policies, guidelines, codes, and maximum reimbursement allowances for services and supplies furnished by health care providers under the Workers' Compensation statutes. The Manual also states the reimbursement policies and payment methodologies for pharmacists and medical suppliers pertaining to Workers' Compensation.

The Statement of Estimated Regulatory Costs showed Rule 69L-7.020, F.A.C., *Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition*, would have a specific, adverse economic effect, or would increase regulatory costs, exceeding \$1 million over the first 5 years the rule was in effect. Accordingly, the Rule must be ratified by the Legislature before it may go into effect.

The Rule was adopted on July 16, 2015, and submitted for ratification on November 3, 2015. The bill authorizes the Rule to go into effect. The scope of the bill is limited to this rulemaking condition and does not adopt the substance of any rule into the statutes. The bill is effective upon becoming law.

II. Present Situation:

Florida's workers' compensation law¹ provides medically necessary treatment and care for injured employees, including medications. The Department of Financial Services, Division of

¹ Chapter 440, F.S.

Workers' Compensation, (DFS) provides regulatory oversight of Florida's workers' compensation system. The law provides for reimbursement formulas and methodologies to compensate providers of health services to compensation claimants, subject to maximum reimbursement allowances (MRAs).² DFS incorporates the uniform schedules' MRAs by rule in reimbursement manuals.³

Currently, the reimbursement schedules for individual licensed providers are contained in the Florida Workers' Compensation Health Care Provider Reimbursement Manual (Manual), 2008 Edition. On January 22, 2015, the Three-Member Panel approved a revised uniform schedule of MRAs for physicians and other recognized practitioners. DFS initiated rulemaking to update the Manual and on July 16, 2015, adopted the amended version of Rule 69L-7.020, F.A.C., incorporating by reference the 2015 Edition of the Manual and updating incorporating references to other materials used for provider reimbursement together with the Manual. According to the Statement of Estimated Regulatory Costs (SERC), the revisions to MRAs in the updated Manual will result in increased costs to the overall compensation system of \$61 million over the next 5 years.⁴

Rulemaking Authority and Legislative Ratification

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.⁵ Rulemaking authority is delegated by the Legislature⁶ through statute and authorizes an agency to "adopt, develop, establish, or otherwise create"⁷ a rule. Agencies do not have discretion whether to engage in rulemaking.⁸ To adopt a rule an agency must have a general grant of authority to implement a specific law by rulemaking.⁹ The grant of rulemaking authority itself need not be detailed.¹⁰ The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.¹¹

An agency begins the formal rulemaking process by filing a notice of the proposed rule.¹² The notice is published by the Department of State in the Florida Administrative Weekly¹³ and must provide certain information, including the text of the proposed rule, a summary of the agency's

² Section 440.13(12), F.S. The law creates the Three-Member Panel (CFO or CFO designee and two Governor appointees subject to Senate confirmation) that sets all MRAs.

³ Section 440.13(12), (14)(b), F.S. Chapter 69L-7, F.A.C. Currently there are three such manuals: the Florida Workers' Compensation Health Care Provider Reimbursement Manual (Rule 69L-7.020, F.A.C.), Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers (Rule 69L-7.100, F.A.C.), and Florida Workers' Compensation Reimbursement Manual for Hospitals (Rule 69L-7.501, F.A.C.). Each manual is adopted by reference in the indicated rule.

⁴ DFS, "Statement of Estimated Regulatory Costs for Legislative Review and Ratification of Proposed Rule Change, Pursuant to Section 120.541, Florida Statutes" (12/9/2011).

⁵ Section 120.52(16); *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So.2d 527, 530 (Fla. 1st DCA 2007).

⁶ *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So.2d 594 (Fla. 1st DCA 2000).

⁷ Section 120.52(17).

⁸ Section 120.54(1)(a), F.S.

⁹ Section 120.52(8) and s. 120.536(1), F.S.

¹⁰ *Save the Manatee Club, Inc.*, supra at 599.

¹¹ *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So.2d 696, 704 (Fla. 1st DCA 2001).

¹² Section 120.54(3)(a)1, F.S.

¹³ Section 120.55(1)(b)2, F.S.

statement of estimated regulatory costs (SERC) if one is prepared, and how a party may request a public hearing on the proposed rule. The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or increase in regulatory costs.¹⁴

The economic analysis mandated for each SERC must analyze a rule's potential impact over the 5 year period from when the rule goes into effect. First is the rule's likely adverse impact on economic growth, private-sector job creation or employment, or private-sector investment.¹⁵ Next is the likely adverse impact on business competitiveness,¹⁶ productivity, or innovation.¹⁷ Finally, the analysis must discuss whether the rule is likely to increase regulatory costs, including any transactional costs.¹⁸ If the analysis shows the projected impact of the proposed rule in any one of these areas will exceed \$1 million in the aggregate for the 5 year period, the rule cannot go into effect until ratified by the Legislature pursuant to s. 120.541(3), F.S.

Present law distinguishes between a rule being "adopted" and becoming enforceable or "effective."¹⁹ A rule must be filed for adoption before it may go into effect²⁰ and cannot be filed for adoption until completion of the rulemaking process.²¹ A rule projected to have a specific economic impact exceeding \$1 million in the aggregate over 5 years²² must be ratified by the Legislature before going into effect.²³ As a rule submitted under s. 120.541(3), F.S., becomes effective if ratified by the Legislature, a rule must be filed for adoption before being submitted for legislative ratification.

Impact of Rule

The Rule incorporates by reference the 2015 Edition of the Manual, providing for reimbursement of health care providers under the increased MRAs approved by the Three-Member Panel.

III. Effect of Proposed Changes:

The bill ratifies Rule 69L-7.020, F.A.C., allowing the rule to go into effect.

Section 1 ratifies Rule 69L-7.020, F.A.C., solely to meet the condition for effectiveness imposed by s. 120.541(3), F.S. Expressly limits ratification to the effectiveness of the rules. Directs the act shall not be codified in the Florida Statutes but only noted in the historical comments to each rule by the Department of State.

Section 2 provides the act goes into effect upon becoming law.

¹⁴ Section 120.541(2)(a), F.S.

¹⁵ Section 120.541(2)(a)1., F.S.

¹⁶ Including the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

¹⁷ Section 120.541(2)(a) 2., F.S.

¹⁸ Section 120.541(2)(a) 3., F.S.

¹⁹ Section 120.54(3)(e)6, F.S. Before a rule becomes enforceable, thus "effective," the agency first must complete the rulemaking process and file the rule for adoption with the Department of State.

²⁰ Section 120.54(3)(e)6, F.S.

²¹ Section 120.54(3)(e), F.S.

²² Section 120.541(2)(a), F.S.

²³ Section 120.541(3), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The legislation does not appear to require counties or municipalities to take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill itself does not directly impact the private sector. Private employers responsible for paying workers' compensation claims or obtaining workers' compensation insurance will incur increased costs due to the increase in maximum reimbursements for providers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Simmons

10-01208-16

20161402__

1 A bill to be entitled
 2 An act relating to ratification of Department of
 3 Financial Services rules; ratifying a specified rule
 4 relating to the Florida Workers' Compensation Health
 5 Care Provider Reimbursement Manual for the sole and
 6 exclusive purpose of satisfying any condition on
 7 effectiveness pursuant to s. 120.541(3), F.S., which
 8 requires ratification of any rule exceeding the
 9 specified thresholds for likely adverse impact or
 10 increase in regulatory costs; providing applicability;
 11 providing an effective date.
 12

13 Be It Enacted by the Legislature of the State of Florida:
 14

15 Section 1. (1) The following rule is ratified for the sole
 16 and exclusive purpose of satisfying any condition on
 17 effectiveness imposed under s. 120.541(3), Florida Statutes:
 18 Rule 69L-7.020, Florida Administrative Code, titled "Florida
 19 Workers' Compensation Health Care Provider Reimbursement Manual"
 20 as filed for adoption with the Department of State pursuant to
 21 the certification package dated July 16, 2015.

22 (2) This act serves no other purpose and shall not be
 23 codified in the Florida Statutes. After this act becomes law,
 24 its enactment and effective dates shall be noted in the Florida
 25 Administrative Code, the Florida Administrative Register, or
 26 both, as appropriate. This act does not alter rulemaking
 27 authority delegated by prior law, does not constitute
 28 legislative preemption of or exception to any provision of law
 29 governing adoption or enforcement of the rule cited, and is
 30 intended to preserve the status of any cited rule as a rule
 31 under chapter 120, Florida Statutes. This act does not cure any
 32 rulemaking defect or preempt any challenge based on a lack of

Page 1 of 2

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

10-01208-16

20161402__

33 authority or a violation of the legal requirements governing the
 34 adoption of any rule cited.

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: January 19, 2016

I respectfully request that **Senate Bill 1402**, relating to Ratification of Department of Financial Services Rules, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

Senator David Simmons
Florida Senate, District 10

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

1402
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Gerald Wester

Job Title _____

Address 101 E College
Street

Phone 850 445 7256

Jal
City

FL
State

32301
Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AIF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
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2/1/2016

Meeting Date

SB 1402

Bill Number (if applicable)

Topic SB 1402

Amendment Barcode (if applicable)

Name Elizabeth Boyd

Job Title Legislative Affairs Director

Address 400 N Monroe St

Phone 850-413-2863

Street

Tallahassee

FL

32399

Email elizabeth.boyd@myfloridacfo.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Department of Financial Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
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2/11/16
Meeting Date

1402
Bill Number (if applicable)

Topic Rectification

Amendment Barcode (if applicable)

Name Mary Thomas

Job Title Assistant General Counsel

Address 1430 Piedmont Dr E
Street

Phone 850 224 6796

TLH FL 32308
City State Zip

Email MThomas@flmedical.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Medical Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
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2/1/16

Meeting Date

981402

Bill Number (if applicable)

Topic Ratification of workers Comp rule

Amendment Barcode (if applicable)

Name Cori Repp MD

Job Title Medical Director

Address 1105 53rd Ave E Suite A
Street

Phone 941 755 2562

Bradenton FL 34203
City State Zip

Email DR_Corri@NoNormal.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing US Healthworks

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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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 1490

INTRODUCER: Banking and Insurance Committee and Senator Garcia

SUBJECT: Financial Institution Records

DATE: February 3, 2016

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1490 clarifies that the Office of Financial Regulation (OFR), is not prevented from providing otherwise confidential information to any Federal Home Loan Bank (FHLB) pursuant to an information-sharing agreement. The OFR is required to execute an information-sharing agreement with the FHLBs by August 1, 2016.

The Federal Home Loan Bank (FHLB) System is a government-sponsored enterprise designed to support residential mortgage lending and community investment at the local level by providing primary mortgage liquidity (direct loans) to member financial institutions. Currently, there are over 7,300 members located in 11 regions of the country. Each member (typically a bank, thrift, credit union, or insurance company) is a shareholder in one or more of the regional FHLBs, which are privately capitalized, separate corporate entities managed within a framework established by the Federal Housing Finance Agency. Collectively, the FHLBs have been described as the largest provider of mortgage credit in the U.S. In essence, they are the “bankers' banks.”

As one of the conditions for FHLB membership eligibility, federal law requires that the financial institutions agree that state and federal examination reports be provided to the FHLBs in order to determine the financial condition of the financial institution. The scope of the OFR examinations of Florida chartered financial institutions includes an evaluation of the institutions' financial condition and compliance with state and federal requirements for safety and soundness. The OFR

examination reports contain highly sensitive financial information, and in some instances, may result in a corrective or enforcement action.

Currently, the financial institution codes (codes) generally provide that OFR records related to investigations and reports of examination, operations, or condition are confidential and exempt from public records disclosure, with certain exceptions. One such exception states that the OFR is not prevented or restricted from furnishing records or information to “any other state, federal, or foreign agency responsible for the regulation or supervision of financial institutions, including Federal Home Loan Banks.” However, the current law does not specify that the OFR provide examination reports or information regarding the financial condition of FHLB members to those agencies or to the FHLBs. Secondly, the FHLBs are not federal financial institution regulators, resulting in some uncertainty regarding the OFR’s ability to share confidential supervisory information with the FHLBs. While the OFR currently has information-sharing agreements with other federal financial institution regulators, it does not have any such agreements with the FHLBs.

II. Present Situation:

U.S. Banking System

The U.S. dual banking system allows commercial banks to become chartered under either federal or state law. National banks are chartered under federal law, i.e., the National Bank Act.¹ Their primary federal regulator is the Office of the Comptroller of the Currency (OCC), an independent agency within the U.S. Department of the Treasury.

State-chartered banks are chartered under the laws of the state in which the bank is headquartered. The primary federal regulator for state banks that are members of the Federal Reserve System is the Board of Governors of the Federal Reserve System (FRB). The primary federal regulator for non-FRB member banks is the Federal Deposit Insurance Corporation (FDIC).² Credit unions may also be either state or federally chartered. Their primary federal regulator is the National Credit Union Administration.

Office of Financial Regulation

In Florida, the Office of Financial Regulation (OFR) charters and regulates entities that engage in financial institution business in Florida, in accordance with the Florida Financial Institutions Codes (Codes).³ The OFR does not regulate financial institutions that are nationally chartered or chartered in other states. In addition, the OFR does not regulate institutions that are chartered and regulated by foreign institutions, except to the extent those foreign institutions seek to engage in the business of banking or trust business in Florida.

¹ The act give enumerated powers and “all such incidental powers as shall be necessary to carry on the business of banking” to nationally chartered banks.” [12 U.S.C. s. 24 Seventh]

² 12 U.S.C. s. 1813(q).

³ Chs. 655, 657, 658, 660, 663, 665, 667, F.S.

The OFR ensures Florida-chartered financial institutions' compliance with state and federal requirements for safety and soundness.⁴ Like their federal counterparts, the OFR conducts regular examinations of Florida institutions. The Codes require the OFR to conduct examinations of each Florida financial institution during each 18-month period, although it may examine more frequently based on the institution's risk profile, prior exam history, or significant changes in the institution or its operations.⁵ The examinations primarily review the institution's condition as to its Capital, Asset Quality, Management, Earnings, Liquidity, and Sensitivity (such as interest rate risk), based on a uniform supervisory rating system (CAMELS) that is used by state and federal financial institution regulators to classify a financial institution's overall condition.⁶ Upon completion of the examination, the regulator presents its findings and recommended corrective measures to the institution through a highly confidential examination report.⁷

Confidentiality of Records and Information

Currently, s. 655.057, F.S., governs the confidentiality of records and information relating to investigations; informal enforcement actions; trade secrets; and reports of examination, operations, or condition, including working papers prepared by, or for the use of, the OFR or any state or federal agency responsible for the regulation or supervision of financial institutions in Florida. The statute generally provides that, except as otherwise provided in that section and except for such portions thereof that are otherwise public record, OFR records related to investigations and reports of examination, operations, or condition are confidential and exempt from s. 119.07(1), F.S. Subsection (5) of the current statute states that s. 655.057, F.S., does not prevent or restrict the OFR from "furnishing records or information to any other state, federal, or foreign agency responsible for the regulation or supervision of financial institutions, including Federal Home Loan Banks." However, the current statute does not clearly require or mandate that the OFR provide records or information relating to investigations, informal enforcement actions, trade secrets, and reports of examination, operations, or condition to any other agency, or any Federal Home Loan Bank.

The OFR routinely shares confidential supervisory information with other federal and state agencies that are responsible for the regulation and supervision of financial institutions (such as the FDIC, the National Credit Union Administration, or the Financial Crimes Enforcement Network⁸), in accordance with memoranda of understanding (MOUs) that acknowledge the

⁴ While the Codes do not specifically define "safety and soundness," s. 655.005(1)(y), F.S., defines "unsafe and unsound practice" as "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."

⁵ Section 655.045(1), F.S.

⁶ CAMELS is based on the Federal Financial Institutions Examination Council's Uniform Financial Institutions Rating System. Institutions are assessed on a 1 (best) to 5 (worst) rating system. See FDIC Financial Institution Letter FIL-105-96 (Dec. 26, 1996).

⁷ Section 655.057(12)(a), F.S.

⁸ FinCEN is a bureau of the U.S. Department of Treasury that safeguards the U.S. financial system from illicit use, money laundering, and terrorist financing through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities. It administers portions of the federal Bank Secrecy Act and anti-money laundering regulations, which were significantly enhanced by the U.S. Patriot Act of 2001. The Codes and federal law require the OFR to monitor

existing framework of federal and state laws and regulations which uniformly respect the confidential treatment that the documents or information would receive under the submitting agency's applicable confidentiality laws.⁹ In particular, OFR reports of examination, described above, routinely contain confidential supervisory information obtained from other bank regulators, and the OFR is obligated to protect such information pursuant to federal confidentiality restrictions and these MOUs. Willful release of confidential information is a violation of s. 655.057(13), F.S., a third-degree felony. Similar federal criminal sanctions may also apply if confidential supervisory information owned by federal financial institution regulators is improperly released.

Despite the statute's inclusion of FHLBs as permissive recipients of confidential supervisory information along with other federal bank regulators, the FHLBs are not federal agencies responsible for the regulation of financial institutions, but are 11 separate corporations owned by eligible financial institution members that collectively make up the FHLB System. As a result, there is some uncertainty regarding the OFR's ability to share information with the FHLBs under s. 655.057, F.S. The OFR does not currently have an MOU with the FHLBs.

Federal Home Loan Banks

The FHLB System, established in 1932 by the Federal Home Loan Bank Act,¹⁰ is a group of government-sponsored enterprises comprising of 11 regional, federally chartered banks. Each FHLB is cooperatively owned by its members—such as commercial and community banks, thrifts, credit unions, and insurance companies.¹¹ As of year-end 2014, over 7,300 financial institutions were members of the FHLB System.¹²

Eligible financial institutions become members through an application process and, once approved, purchase stock in their regional FHLB. To become a member of its regional FHLB, a financial institution must meet certain eligibility requirements and purchase capital stock; thereafter, it must maintain an investment in the capital stock of the FHLB sufficient to satisfy the minimum investment required for that institution in accordance with the FHLB's capital plan.¹³ Federal law requires the institution to demonstrate compliance with certain financial condition requirements by providing documentation such as regulatory financial reports, financial statements, and regulatory examination reports.¹⁴ Each potential member must agree to certain conditions, including that reports of examination by local, state, or federal agencies may be furnished by such authorities to the FHLB or the FHFA upon request.¹⁵ According to the OFR, however, the laws pertaining to FHLBs do not address or protect the ownership or

and assess state-chartered financial institutions' compliance with these laws, subject to significant federal confidentiality restrictions.

⁹ See, e.g., s. 655.057(9), F.S.; 12 C.F.R. pts. 261 and 309.

¹⁰ Public Law 72-304 (1932); 12 U.S.C. 1421 *et seq.*

¹¹ General Accounting Office, *Federal Home Loan Banks, Information on Governance Changes, Board Diversity, and Community Lending* (GAO-15-435) (May 2015).

¹² See <http://www.fhlbanks.com/#what> (last visited Jan. 27, 2016).

¹³ 812 C.F.R. s. 931.3(d).

¹⁴ 12 U.S.C. s.1424(a)(2)(B) and § 1263.6(a)(4); 12 C.F.R. s. 1263.11.

¹⁵ 12 C.F.R. s. 1263.31(b).

confidentiality of any information it may obtain from a state agency,¹⁶ should a FHLB or the FHFA receive a federal Freedom of Information Act (FOIA) request.¹⁷

The federal regulator charged with overseeing the FHLBs is the Federal Housing Finance Agency (FHFA), and is thus considered a “federal agency responsible for the regulation of financial institutions” that the OFR is authorized by s. 655.057, F.S., to share certain confidential information. However, the OFR currently does not have a MOU with the FHFA.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 655.057(5), F.S., to clarify that OFR is not prevented from providing otherwise confidential information to any FHLB or any state, federal, or foreign agency responsible for the regulation or supervision of financial institutions. This change correctly reflects the FHLBs’ status as not being a regulator of federal financial institutions.

The bill requires the OFR to make reports of examination and other information relating to a FHLB member’s condition available to the FHLBs in accordance with an information-sharing agreement.

Section 2 requires the OFR to execute an information-sharing agreement with the FHLBs by August 1, 2016.

Section 3 makes the act effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁶ Office of Financial Regulation, Agency Legislative Bill Analysis of Senate Bill 1490 (Jan. 21, 2016).

¹⁷ FOIA does not apply to “matters that are...contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an *agency* responsible for the regulation or supervision of financial institutions.” 5 U.S.C. s. 522(b)(8). For purposes of FOIA, “agency” means authorities of the government of the United States (excluding its territories and possessions), but not of the states themselves.

¹⁸ Office of Financial Regulation, Agency Legislative Bill Analysis of Senate Bill 1490 (Jan. 21, 2016).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill's clarification of the OFR's ability to share information with the FHLBs may expedite or facilitate financial institutions' new membership in the FHLBs and continued supervision by the FHFA.

C. Government Sector Impact:

As noted above, the OFR's examination reports routinely contain other regulators' confidential information, which the OFR protects pursuant to federal laws and information-sharing agreements with those regulatory agencies. These agreements contain specific limitations on what information can be shared. The OFR notes that if it provides unredacted examination reports to the FHFB because of the bill, it would be in breach of their agreements with these other regulatory agencies.

According to the OFR, the bill will require indeterminate staff time for redaction and legal review as part of the production process to FHLB, in order to comply with existing federal confidentiality restrictions and the OFR's information-sharing agreements with other agencies. The execution of an information-sharing agreement should allow the OFR and the FHLBs to provide for the permissible use of supervisory information, restricted access, safekeeping, and other terms.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 655.057 of the Florida Statutes.

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

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

CS by Banking and Insurance on February 1, 2016:

The CS clarifies that the OFR's authority to share information with other state, federal, or foreign agencies responsible for the regulation or supervision of financial institutions no longer includes FHLBs, which correctly reflects the status of FHLBs as not being a

financial institution regulator. The CS authorizes the OFR to furnish information to FHLBs regarding its member institutions, in accordance with an information-sharing agreement between the FHLBs and the OFR. The OFR is required to execute the information-sharing agreement with the FHLBs by August 1, 2016.

B. Amendments:

None.



960424

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (5) of section
655.057, Florida Statutes, is amended, and paragraph (f) is
added to that subsection, to read:

655.057 Records; limited restrictions upon public access.—
(5) This section does not prevent or restrict:



960424

10 (b) Furnishing records or information to any other state,
11 federal, or foreign agency responsible for the regulation or
12 supervision of financial institutions, ~~including Federal Home~~
13 ~~Loan Banks.~~

14 (f) Furnishing information to the Federal Home Loan Banks
15 regarding their member institutions pursuant to an information-
16 sharing agreement between the Federal Home Loan Banks and the
17 office.

18
19 Any confidential information or records obtained from the office
20 pursuant to this subsection shall be maintained as confidential
21 and exempt from s. 119.07(1).

22 Section 2. The Office of Financial Regulation shall execute
23 an information-sharing agreement with the Federal Home Loan
24 Banks for purposes of s. 655.057(5)(f), Florida Statutes, by
25 August 1, 2016.

26 Section 3. This act shall take effect July 1, 2016.

27
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete everything before the enacting clause
31 and insert:

32 A bill to be entitled
33 An act relating to the Federal Home Loan Banks;
34 amending s. 655.057, F.S.; providing that certain
35 records requirements do not prevent or restrict the
36 furnishing of certain information held by the Office
37 of Financial Regulation to the Federal Home Loan Banks
38 pursuant to an information-sharing agreement;



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39
40

requiring the office to execute such agreement by a
specified date; providing an effective date.

By Senator Garcia

38-00971-16

20161490__

1 A bill to be entitled
 2 An act relating to financial institution records;
 3 amending s. 655.057, F.S.; specifying that certain
 4 records requirements do not prevent or restrict the
 5 Office of Financial Regulation from furnishing certain
 6 records or information to any Federal Home Loan Bank;
 7 requiring the office to make available to any Federal
 8 Home Loan Bank certain information relating to any
 9 member of a Federal Home Loan Bank; providing an
 10 effective date.

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

14 Section 1. Subsection (5) of section 655.057, Florida
 15 Statutes, is amended to read:

16 655.057 Records; limited restrictions upon public access.—

17 (5) This section does not prevent or restrict:

18 (a) Publishing reports that are required to be submitted to
 19 the office pursuant to s. 655.045(2) or required by applicable
 20 federal statutes or regulations to be published.

21 (b) Furnishing records or information to any Federal Home
 22 Loan Bank or any other state, federal, or foreign agency
 23 responsible for the regulation or supervision of financial
 24 institutions, ~~including Federal Home Loan Banks.~~

25 (c) Disclosing or publishing summaries of the condition of
 26 financial institutions and general economic and similar
 27 statistics and data, provided that the identity of a particular
 28 financial institution is not disclosed.

29 (d) Reporting any suspected criminal activity, with
 30 supporting documents and information, to appropriate law
 31 enforcement and prosecutorial agencies.

32 (e) Furnishing information upon request to the Chief

Page 1 of 2

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

38-00971-16

20161490__

33 Financial Officer or the Division of Treasury of the Department
 34 of Financial Services regarding the financial condition of any
 35 financial institution that is, or has applied to be, designated
 36 as a qualified public depository pursuant to chapter 280.

37
 38 Any confidential information or records obtained from the office
 39 pursuant to this subsection shall be maintained as confidential
 40 and exempt from s. 119.07(1). The office shall make available to
 41 any Federal Home Loan Bank the reports of examinations and other
 42 information relating to the condition of any member of a Federal
 43 Home Loan Bank.

44 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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

The Florida Senate
State Senator René García
38th District

‡District Office:
1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

January 22, 2016

The Honorable Lizbeth Benacquisto
Chairwoman, Committee on Banking and Insurance
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Benacquisto:

Please have this letter serve as my formal request to have **SB 1490: Financial Institution Records**, be heard in the next possible Committee on Banking and Insurance Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García
District 38
RG:AD

CC: James Knudson, Sheri Green

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

February 1, 2016

Meeting Date

SB 1490

Bill Number (if applicable)

960424

Amendment Barcode (if applicable)

Topic Amendment to SB 1490

Name Ross Nobles

Job Title Chief Financial Officer

Address 200 E. Gaines Street

Street

Tallahassee

City

FL

State

32399-0370

Zip

Phone 850-410-9601

Email ross.nobles@flofr.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Office of Financial Regulation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.1.16
Meeting Date

1490
Bill Number (if applicable)

Topic Financial Institutions Records

Amendment Barcode (if applicable)

Name JARED ROSS

Job Title SVP, Governmental Affairs

Address 3692 Coolidge Ct.
Street

Phone (850) 322-6956

Tallahassee FL 32311
City State Zip

Email jared.ross@lscu.coop

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA CREDIT Union Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.1.2016

Meeting Date

1490

Bill Number (if applicable)

Topic Financial Institutions Records

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title President of Gov. Relations

Address 1001 Thomasville Rd. Suite 201

Phone _____

Street

Tallahassee

City

FL

State

32308

Zip

Email adimarco@floridabankers.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Bankers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

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 1630

INTRODUCER: Banking and Insurance Committee and Senator Flores

SUBJECT: Operations of the Citizens Property Insurance Corporation

DATE: February 3, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Fav/CS
2.			EE	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1630 makes the following changes with regards to Citizens Property Insurance Corporation (Citizens):

Citizens Depopulation

- Requires Citizens to make changes, by January 1, 2017, to their plan of operation as it relates to take-out agreements made with private insurers.
- Requires Citizens to establish six cycles for which take-out offers can be made by private insurers to Citizens' policyholders.
- Requires private insurers to offer similar coverage comparable to Citizens and must agree that their initial premium will be within 10 percent of the estimated premium submitted with the take-out offer.
- Requires private insurers must include in their take-out offers to Citizens policyholders, a comparison of coverages and rate between the insurer's policy and Citizens policy.
- Requires Citizens to compile a list of companies that have shown interest in depopulating a policy and to make available to the agent of record.
- Allows a Citizens policyholder, who accepts a take-out offer, the ability to reapply to Citizens and be treated as a renewal through the clearinghouse if within 36 months of leaving Citizens their premium is increased above the rate allowed in the bill.

Citizens Agent Appointments

- Requires that agents who write business for Citizens must also hold an appointment with an admitted carrier that is currently writing or renewing policies in the state.

Other Provisions

- Allows the consumer representative to the Citizens Board of Governors to be afforded the same conflict of interest exemption as other board members.
- Allows Citizens to share underwriting and claims files data with entities that have obtained a permit to become an authorized insurer, a reinsurer, reinsurance broker, or modeling company. Such data may only be used for the development of takeout plans. General lines agents will no longer be allowed access to Citizens records.

Public Model

- Allows Citizens to use a combination of the public model and private models when calculating the windstorm portion of rates.

II. Present Situation:

Citizens Property Insurance Corporation (Citizens)

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.¹ Citizens is not a private insurance company.² Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight member Board of Governors³ (board) that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoints two members to the board. Citizens is subject to regulation by the Florida Office of Insurance Regulation.

Citizens offers property insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surplus and deficits.⁴ Assets may not be commingled or used to fund losses in another account.⁵

¹ Admitted market means insurance companies licensed to transact insurance in Florida.

² s. 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the Office of Insurance Regulation.

³ The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives.

⁴ The Personal Lines Account and the Commercial Lines account are combined for credit and Florida Hurricane Catastrophe Fund coverage.

⁵ s. 627.351(6)(b)2b., F.S.

The Personal Lines Account (PLA) offers personal lines residential policies that provide comprehensive, multiperil coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided by homeowners, mobile homeowners, dwellings, tenants, and condominium unit owner's policies.

The Commercial Lines Account (CLA) offers commercial lines residential and nonresidential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial nonresidential policies covering business properties.

The Coastal Account offers personal residential, commercial residential and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multiperil policies.⁶

The Citizens Property Insurance Corporation policyholder eligibility clearinghouse program was established by the Legislature in 2013.⁷ Under the program, new and renewal policies for Citizens are placed into the clearinghouse where participating private insurers can review and decide to make offers of coverage before policies are placed or renewed with Citizens. For new policies applying with Citizens, any private market offer through the clearinghouse for similar coverage that is not greater than 15 percent of Citizens rate makes the policy ineligible for coverage with Citizens. Additionally, a renewal Citizens policy that receives any private market offer through the clearinghouse for similar coverage that is equal to or less than Citizens rate is ineligible for coverage with Citizens.

Citizens Board of Governors

Citizens operates under the direction of a nine-member Board of Governors (board). The board members are not Citizens' employees and are not paid. The Chief Financial Officer, Senate President, and Speaker of the House of Representatives each appoint two members of the board, with one member appointed chair by the Chief Financial Officer (CFO). The Governor appoints three members, one of whom serves as a consumer representative.⁸ Board members serve 3-year staggered terms.

At least one of the two board members appointed by each appointing officer must have demonstrated expertise in insurance. By law, board members with the required insurance expertise fall within the exemption in the conflicting employment or contractual relationship

⁶ In August of 2007, Citizens began offering personal and commercial residential multiperil policies in this limited eligibility area. Additionally, near the end of 2008, Citizens began offering commercial non-residential multiperil policies in this account.

⁷ s. 10, ch. 2013-60 L.O.F.

⁸ s. 627.351(6)(c)4.a., F.S.

statute that applies to public officers and agency employees.⁹ Thus, these board members can maintain employment in the private sector in jobs involving business with Citizens without violating the conflict of interest statute because half of the board members are required by law to have insurance expertise in order to sit on the board.¹⁰

Agent Appointments

Section 627.351(6)(c)14., F.S., requires Citizens must appoint as its licensed agents only those agents who also hold an appointment with an insurer who at the time of the agent's initial appointment by Citizens is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state. As a result of the "initial appointment" language there are many agents appointed by Citizens who currently do not hold an appointment with another private insurance company. As a result these agents only try to place business in Citizens regardless if the policy should be submitted to the insurer of last resort.

Hurricane Loss Models

In 1995 the Legislature established the Florida Commission on Hurricane Loss Projection Methodology (Commission) to serve as an independent body within the State Board of Administration.¹¹ Section 627.0628, F.S., lists the 12 members who are to make up the commission. The Commission is to adopt findings on the accuracy or reliability of the methods, standards, principles, models and other means used to project hurricane losses. The Commission sets standards for loss projection methodology and examines the methods employed in proprietary hurricane loss models used by private insurers in setting rates to determine whether they meet the Commission's standards.

Public Hurricane Loss Model - Citizens

The Public Hurricane Model was approved by the Florida Legislature in the General Appropriates Act for fiscal year 2000-2001, and was directed to contract with the Florida University System.¹² The Financial Services Commissions selected the Florida International University (FIU) as the lead institution for development. On August 9, 2005, the Florida Insurance Commissioner commissioned five teams of professionals to visit the FIU campus in Miami to review the efficacy of the Public Hurricane Model. The five teams included: 1) a Meteorological Team; 2) an Engineering Team; 3) an Insured Loss Team; 4) a Computer Science Team; and 5) a Statistical Team. Based on the team's findings, the insurance commissioner recommended to the Governor in August 31, 2005 that the Public Hurricane Model was ready for use.¹³

Section 627.351(6)(n)3., F.S., requires Citizens must use the Public Model as the minimum benchmark when establishing rates. Citizens has found in certain territories the Public Model

⁹ Board members of Citizens fall under the definition of "public officer" in s. 112.313(1), F.S., because that definition includes any person appointed to hold office in any agency, including serving on an advisory board. "Agency" is defined in s. 112.312, F.S.

¹⁰ s. 627.351(6)(c)4.a., F.S.

¹¹ s. 627.0628, F.S.

¹² s. 2226, ch. 2000-166, L.O.F.

¹³ <http://www.floir.com/sitedocuments/flpublichurricanemodel.pdf> (Last visited Feb. 2, 2016).

ends up being the highest of all the models run. By requiring Citizens to use the Public Model as the minimum benchmark means Citizens must submit rates that are higher than rates that would have been allowed under the private model results.

Citizens Underwriting and Claims Files

Current law allows Citizens to share confidential underwriting and claims files with an insurer that is contemplating underwriting a risk insured by the corporation, provided the insurer executes a notarized agreement to retain their confidentiality.¹⁴ The corporation may also make specified information from the underwriting and claims files available to general lines insurance agents. Such information is limited to the name, address, and telephone number of the property owner or insured; the location of the risk; rating information; loss history; and policy type. The law requires the agent to retain the confidentiality of the information.¹⁵

Takeout Bonus Agreements

Section 627.3511, F.S., was created by the Legislature in 1995¹⁶ and at that time applied to the depopulation of the Residential Property and Casualty Joint Underwriting Association. After the Legislature merged the two underwriting associations to create Citizens in 2002, this section was amended to apply to the depopulation of Citizens Property Insurance Corporation.

Take out agreements that were approved under this section allowed for a per policy bonus to be paid to each participating insurer provided that they removed a given number of policies for a set number of years. Today, takeouts from Citizens are no longer approved through takeout bonus agreements. The last Citizens takeout bonus agreement under this section took place in November 2007.

Takeout Non-Bonus Agreements

In January of 2008, Citizens Board of Governors adopted a takeout non-bonus plan that was approved by the Office of Insurance Regulation (OIR) in March of that year. Since that time, most takeout agreements between Citizens and private carriers have occurred under this plan. In addition to the requirements of the approved plan, the OIR has on occasion required additional requirements to be included in such takeout agreements. According to the OIR, until 2009 the OIR required private carriers that removed policies from Citizens through a takeout agreement to write the risk at a rate below the rate of Citizens at that time.¹⁷ Additionally, in November of 2013 the OIR began requiring takeout companies to provide information to the policyholder detailing a rate comparison between the Citizens rate and the private insurer's rate.¹⁸

¹⁴ s. 627.351(6)(x)2., F.S.

¹⁵ *Id.*

¹⁶ s. 10, ch. 95-276, L.O.F.

¹⁷ Information received from the OIR on March 19, 2015. (On file with the Banking and Insurance Committee)

¹⁸ *Id.*

Depopulation

Florida law requires Citizens to create programs to help return Citizens policies to the private market and reduce the risk of additional assessments for all Floridians.¹⁹ Policyholders whose policies are selected for takeout are sent a letter notifying them of the pending takeout and provided instructions on how they can elect (opt-out) to remain with Citizens, if eligible and should they wish to do so. Policyholders who do not opt-out within the opt-out timeframe will receive a Notice of Assumption, a non-renewal from Citizens and a Certificate of Assumption. The policyholder still has an additional timeframe from the receipt of these notices to elect to remain with Citizens. Citizens encourage policyholders who receive private-market offers to consider them carefully and discuss the advantages of such coverage with their agents. Accepting an offer from a private insurer can decrease a Citizens policyholder's potential of assessment.

In November 2011, Citizens reported a policy count of 1,472,391 policies insured. As of January 19, 2016, Citizens reports their policy count was at 484,788 policies insured.²⁰ Much of the success of Citizens reduction in size is the result of depopulation through takeout agreements. From 2012 through 2015, a total of 1,332,108 policies were removed for Citizens and placed into the private market through the use of the current takeout agreement process.²¹

Citizens Glide Path Rates

Citizens rates for coverage are required to be actuarially sound and are subject to the rate standards for property and casualty insurance in s. 627.062, F.S., except as otherwise provided. From 2007 until 2010, Citizens rates were frozen by statute at the level that had been established in 2006. In 2010, the Legislature established a “glide path” to impose annual rate increases up to a level that is actuarially sound. Citizens must implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges.²² The implementation of this increase ceases when Citizens has achieved actuarially sound rates. In addition to the overall glide path rate increase, Citizens can increase its rates to recover the additional reimbursement premium that it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the FHCF coverage, pursuant to s. 215.555(5)(b), F.S.

Citizens Eligibility

Eligibility for Citizens is for the most part verified through the Clearing House, which is established in s. 627.3518, F.S. A new policy applicant to Citizens is made ineligible though the clearing house if they receive an offer from a participating carrier at a rate that is no greater than 15 percent of the current rate being charged by Citizens. Additionally, a renewal Citizens policy

¹⁹ s. 627.351(6), F.S.

²⁰ Citizens Policy Inforce Weekly Summary Report, March 16, 2015.

²¹ <https://www.citizensfla.com/about/depopininfo.cfm?type=stats&show=pdf&link=/shared/depop/documents/2015.pdf> (Last visited Jan. 27, 2016).

²²s. 627.351(6)(n)6., F.S.

is made ineligible through the Clearing House if they receive an offer from a participating carrier at a rate that is no greater than the current rate being charged by Citizens.

36 Month Reapplication Exception

In 2013, CS/SB 1770 passed the Legislature and was approved by the Governor. The bill created the clearinghouse and provided Citizens policyholders made ineligible through a private market offer the ability to reapply to Citizens in certain circumstances and be treated as a renewal policyholder under s. 627.3518(5), F.S., rather than a new policyholder. The provision allows “an applicant for coverage from the corporation who was declared ineligible for coverage at renewal by the corporation in the previous 36 months due to an offer of coverage pursuant to this subsection shall be considered a renewal under this section if the corporation determines that the authorized insurer making the offer of coverage pursuant to this subsection continues to insure the applicant and increases the rate on the policy in excess of the increase allowed for the corporation under s. 627.351(6)(n)6.”

In 2015, CS/CS/HB 1087 had a provision that stated “a policyholder whose policy was taken out by an insurer in the previous 36 months is considered a renewal policyholder under s. 627.3518, if the corporation determines that the insurer continues to insure the policyholder and that the initial premium of the insurer exceeded its estimated premium by more than 10 percent or the insurer increased the rate on the policy in excess of the increase allowed for the corporation under subparagraph (6)(n)6.” The Governor vetoed CS/CS/HB 1087 and in his veto message stated “The second issue with the legislation is in regards to the provision that creates a process where the policyholder returns to Citizens even though they are currently insured by a private market insurer.”²³

III. Effect of Proposed Changes:

The bill allows for the consumer representative on the Citizens board to be afforded the same exemption from the conflicting employment or contractual relationship statute for public officers and agency employees as is provided in current law to other members of the Citizens board.

The bill requires agents placing policies with Citizens to hold an appointment by an insurer authorized to write and is writing or renewing personal lines or commercial residential property coverage or commercial nonresidential property coverage within the state.

The bill allows Citizens to use a combination of the public model and private models when calculating the windstorm portion of rates.

The bill expands the list of who may receive information from the confidential underwriting and claims files to include an entity which has obtained a permit to become an authorized insurer, a reinsurer, reinsurance broker, or modeling company. The information made available to these entities is the same information available to a licensed general lines agent. The information may be used for the sole purpose of analyzing risks for underwriting in the private insurance market and must be kept confidential. In addition, the bill expressly prohibits the use of the data by any of the authorized users for direct solicitation of policyholders.

²³ <http://www.flgov.com/wp-content/uploads/2015/06/Transmittal-Letter-6.2.15-HB-1087.pdf> (Last visited Jan. 27, 2016).

The bill requires Citizens Property Insurance Corporation to, by January 1, 2017, amend its plan of operations relating to take-out agreements made with private insurers. The amended plan must include:

- The establishment of six cycles for which take-out offers can be made by private insurers to Citizens' policyholders. The provision is intended to decrease the number of solicitations that Citizens policyholders receive pursuant to take-out offers. Proponents of the provision have expressed concern that policyholders who intend to remain with Citizens are sometimes inundated with takeout offers that the policyholder then must affirmatively decline. The bill does not define the length of such cycles or at what times during the year such cycles may occur.
- The requirement that private insurers must include in their take-out offers to Citizens policyholders, a comparison of coverages and rate between the insurer's policy and Citizens policy.
- The requirement that private insurers must agree to offer similar coverage to that being offered by Citizens and that their initial premium will be within 10 percent of the estimated premium submitted with the take-out offer. The term "initial premium is somewhat unclear as it could refer to the premium charged by the insurer upon the takeout, or the premium charged at first renewal.
- The requirement that Citizens must compile a list of companies that have shown interest in depopulating a policy and must make the list available to the agent of record. The provision is intended to facilitate the placement of Citizens policies with private market insurers.
- Must allow a Citizens policyholder, who accepts a take-out offer, the ability to reapply to Citizens and be treated as a renewal through the clearinghouse if within 36 months of leaving Citizens their premium is increased above the rate estimated in the initial take-out letter or exceeds the 10 percent glide path cap imposed on Citizens policies.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, section 24(c) of the Florida Constitution requires each public records exemption to be enacted in a bill that only contains provisions related to the right of the public to access government records and meetings and to inspect or copy public records. Such bills must provide a state of public necessity justifying the exemption and require a two-thirds affirmative vote of each house for passage. Lines 708, 711 and 712 eliminates public records access for general lines agents currently allowed to receive such records. The bill, by restricting access to public records, may violate the above-referenced constitutional requirements. Expanding the list of persons who may receive currently exempt records does not require a separate bill or necessity statement, as granting additional access to public records comports with the right of the public to inspect public records guaranteed in the Florida Constitution.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Policyholders in certain territories could see their wind rates lowered with the combining of the results from the public and private model findings.

More private entities will have access to Citizens data which will better help them analyze risks and trends in Florida's insurance market. This may facilitate greater accuracy in underwriting practices and further facilitate the depopulation of Citizens.

Citizens' policyholders who accept take-out offers from private insurers and whose rates are then increased above the Citizens glide path, within 36 months of leaving Citizens, will have the ability to reapply with Citizens and be rated as a renewal through the clearinghouse. The premiums paid by such policyholders, if ultimately insured by Citizens, will not be greater than the premiums such policyholders would have paid if continuously insured by Citizens. Citizens premium increases are generally limited to no greater than 10 percent annually, with exceptions, under s. 627.736(6)(n), F.S.

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: 627.351 and 627.3518

IX. Additional Information:

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

CS by Banking and Insurance on February 1, 2016:

The committee substitute:

- Removes section 1 pertaining to multiline discounts.
- Allows Citizens to use a combination of the public model and private models when calculating windstorm rates.
- Increases to 6 cycles from 3 cycles when take-out offers can be made to Citizens policyholders from private insurers.
- Removes a provision pertaining to the use of Citizens forms for 3 years.
- Relocates the 36 month renewal option to 627.3518, F.S.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (c), (n), and (x) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ii) is added to that subsection, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(c) The corporation's plan of operation:



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11 1. Must provide for adoption of residential property and
12 casualty insurance policy forms and commercial residential and
13 nonresidential property insurance forms, which must be approved
14 by the office before use. The corporation shall adopt the
15 following policy forms:

16 a. Standard personal lines policy forms that are
17 comprehensive multiperil policies providing full coverage of a
18 residential property equivalent to the coverage provided in the
19 private insurance market under an HO-3, HO-4, or HO-6 policy.

20 b. Basic personal lines policy forms that are policies
21 similar to an HO-8 policy or a dwelling fire policy that provide
22 coverage meeting the requirements of the secondary mortgage
23 market, but which is more limited than the coverage under a
24 standard policy.

25 c. Commercial lines residential and nonresidential policy
26 forms that are generally similar to the basic perils of full
27 coverage obtainable for commercial residential structures and
28 commercial nonresidential structures in the admitted voluntary
29 market.

30 d. Personal lines and commercial lines residential property
31 insurance forms that cover the peril of wind only. The forms are
32 applicable only to residential properties located in areas
33 eligible for coverage under the coastal account referred to in
34 sub-subparagraph (b)2.a.

35 e. Commercial lines nonresidential property insurance forms
36 that cover the peril of wind only. The forms are applicable only
37 to nonresidential properties located in areas eligible for
38 coverage under the coastal account referred to in sub-
39 subparagraph (b)2.a.



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40 f. The corporation may adopt variations of the policy forms
41 listed in sub-subparagraphs a.-e. which contain more restrictive
42 coverage.

43 g. Effective January 1, 2013, the corporation shall offer a
44 basic personal lines policy similar to an HO-8 policy with
45 dwelling repair based on common construction materials and
46 methods.

47 2. Must provide that the corporation adopt a program in
48 which the corporation and authorized insurers enter into quota
49 share primary insurance agreements for hurricane coverage, as
50 defined in s. 627.4025(2)(a), for eligible risks, and adopt
51 property insurance forms for eligible risks which cover the
52 peril of wind only.

53 a. As used in this subsection, the term:

54 (I) "Quota share primary insurance" means an arrangement in
55 which the primary hurricane coverage of an eligible risk is
56 provided in specified percentages by the corporation and an
57 authorized insurer. The corporation and authorized insurer are
58 each solely responsible for a specified percentage of hurricane
59 coverage of an eligible risk as set forth in a quota share
60 primary insurance agreement between the corporation and an
61 authorized insurer and the insurance contract. The
62 responsibility of the corporation or authorized insurer to pay
63 its specified percentage of hurricane losses of an eligible
64 risk, as set forth in the agreement, may not be altered by the
65 inability of the other party to pay its specified percentage of
66 losses. Eligible risks that are provided hurricane coverage
67 through a quota share primary insurance arrangement must be
68 provided policy forms that set forth the obligations of the



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69 corporation and authorized insurer under the arrangement,
70 clearly specify the percentages of quota share primary insurance
71 provided by the corporation and authorized insurer, and
72 conspicuously and clearly state that the authorized insurer and
73 the corporation may not be held responsible beyond their
74 specified percentage of coverage of hurricane losses.

75 (II) "Eligible risks" means personal lines residential and
76 commercial lines residential risks that meet the underwriting
77 criteria of the corporation and are located in areas that were
78 eligible for coverage by the Florida Windstorm Underwriting
79 Association on January 1, 2002.

80 b. The corporation may enter into quota share primary
81 insurance agreements with authorized insurers at corporation
82 coverage levels of 90 percent and 50 percent.

83 c. If the corporation determines that additional coverage
84 levels are necessary to maximize participation in quota share
85 primary insurance agreements by authorized insurers, the
86 corporation may establish additional coverage levels. However,
87 the corporation's quota share primary insurance coverage level
88 may not exceed 90 percent.

89 d. Any quota share primary insurance agreement entered into
90 between an authorized insurer and the corporation must provide
91 for a uniform specified percentage of coverage of hurricane
92 losses, by county or territory as set forth by the corporation
93 board, for all eligible risks of the authorized insurer covered
94 under the agreement.

95 e. Any quota share primary insurance agreement entered into
96 between an authorized insurer and the corporation is subject to
97 review and approval by the office. However, such agreement shall



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98 be authorized only as to insurance contracts entered into
99 between an authorized insurer and an insured who is already
100 insured by the corporation for wind coverage.

101 f. For all eligible risks covered under quota share primary
102 insurance agreements, the exposure and coverage levels for both
103 the corporation and authorized insurers shall be reported by the
104 corporation to the Florida Hurricane Catastrophe Fund. For all
105 policies of eligible risks covered under such agreements, the
106 corporation and the authorized insurer must maintain complete
107 and accurate records for the purpose of exposure and loss
108 reimbursement audits as required by fund rules. The corporation
109 and the authorized insurer shall each maintain duplicate copies
110 of policy declaration pages and supporting claims documents.

111 g. The corporation board shall establish in its plan of
112 operation standards for quota share agreements which ensure that
113 there is no discriminatory application among insurers as to the
114 terms of the agreements, pricing of the agreements, incentive
115 provisions if any, and consideration paid for servicing policies
116 or adjusting claims.

117 h. The quota share primary insurance agreement between the
118 corporation and an authorized insurer must set forth the
119 specific terms under which coverage is provided, including, but
120 not limited to, the sale and servicing of policies issued under
121 the agreement by the insurance agent of the authorized insurer
122 producing the business, the reporting of information concerning
123 eligible risks, the payment of premium to the corporation, and
124 arrangements for the adjustment and payment of hurricane claims
125 incurred on eligible risks by the claims adjuster and personnel
126 of the authorized insurer. Entering into a quota sharing



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127 insurance agreement between the corporation and an authorized
128 insurer is voluntary and at the discretion of the authorized
129 insurer.

130 3. May provide that the corporation may employ or otherwise
131 contract with individuals or other entities to provide
132 administrative or professional services that may be appropriate
133 to effectuate the plan. The corporation may borrow funds by
134 issuing bonds or by incurring other indebtedness, and shall have
135 other powers reasonably necessary to effectuate the requirements
136 of this subsection, including, without limitation, the power to
137 issue bonds and incur other indebtedness in order to refinance
138 outstanding bonds or other indebtedness. The corporation may
139 seek judicial validation of its bonds or other indebtedness
140 under chapter 75. The corporation may issue bonds or incur other
141 indebtedness, or have bonds issued on its behalf by a unit of
142 local government pursuant to subparagraph (q)2. in the absence
143 of a hurricane or other weather-related event, upon a
144 determination by the corporation, subject to approval by the
145 office, that such action would enable it to efficiently meet the
146 financial obligations of the corporation and that such
147 financings are reasonably necessary to effectuate the
148 requirements of this subsection. The corporation may take all
149 actions needed to facilitate tax-free status for such bonds or
150 indebtedness, including formation of trusts or other affiliated
151 entities. The corporation may pledge assessments, projected
152 recoveries from the Florida Hurricane Catastrophe Fund, other
153 reinsurance recoverables, policyholder surcharges and other
154 surcharges, and other funds available to the corporation as
155 security for bonds or other indebtedness. In recognition of s.



156 10, Art. I of the State Constitution, prohibiting the impairment
157 of obligations of contracts, it is the intent of the Legislature
158 that no action be taken whose purpose is to impair any bond
159 indenture or financing agreement or any revenue source committed
160 by contract to such bond or other indebtedness.

161 4. Must require that the corporation operate subject to the
162 supervision and approval of a board of governors consisting of
163 nine individuals who are residents of this state and who are
164 from different geographical areas of the state, one of whom is
165 appointed by the Governor and serves solely to advocate on
166 behalf of the consumer. The appointment of a consumer
167 representative by the Governor is deemed to be within the scope
168 of the exemption provided in s. 112.313(7) (b) and is in addition
169 to the appointments authorized under sub-subparagraph a.

170 a. The Governor, the Chief Financial Officer, the President
171 of the Senate, and the Speaker of the House of Representatives
172 shall each appoint two members of the board. At least one of the
173 two members appointed by each appointing officer must have
174 demonstrated expertise in insurance and be deemed to be within
175 the scope of the exemption provided in s. 112.313(7) (b). The
176 Chief Financial Officer shall designate one of the appointees as
177 chair. All board members serve at the pleasure of the appointing
178 officer. All members of the board are subject to removal at will
179 by the officers who appointed them. All board members, including
180 the chair, must be appointed to serve for 3-year terms beginning
181 annually on a date designated by the plan. However, for the
182 first term beginning on or after July 1, 2009, each appointing
183 officer shall appoint one member of the board for a 2-year term
184 and one member for a 3-year term. A board vacancy shall be



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185 filled for the unexpired term by the appointing officer. The
186 Chief Financial Officer shall appoint a technical advisory group
187 to provide information and advice to the board in connection
188 with the board's duties under this subsection. The executive
189 director and senior managers of the corporation shall be engaged
190 by the board and serve at the pleasure of the board. Any
191 executive director appointed on or after July 1, 2006, is
192 subject to confirmation by the Senate. The executive director is
193 responsible for employing other staff as the corporation may
194 require, subject to review and concurrence by the board.

195 b. The board shall create a Market Accountability Advisory
196 Committee to assist the corporation in developing awareness of
197 its rates and its customer and agent service levels in
198 relationship to the voluntary market insurers writing similar
199 coverage.

200 (I) The members of the advisory committee consist of the
201 following 11 persons, one of whom must be elected chair by the
202 members of the committee: four representatives, one appointed by
203 the Florida Association of Insurance Agents, one by the Florida
204 Association of Insurance and Financial Advisors, one by the
205 Professional Insurance Agents of Florida, and one by the Latin
206 American Association of Insurance Agencies; three
207 representatives appointed by the insurers with the three highest
208 voluntary market share of residential property insurance
209 business in the state; one representative from the Office of
210 Insurance Regulation; one consumer appointed by the board who is
211 insured by the corporation at the time of appointment to the
212 committee; one representative appointed by the Florida
213 Association of Realtors; and one representative appointed by the



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214 Florida Bankers Association. All members shall be appointed to
215 3-year terms and may serve for consecutive terms.

216 (II) The committee shall report to the corporation at each
217 board meeting on insurance market issues which may include rates
218 and rate competition with the voluntary market; service,
219 including policy issuance, claims processing, and general
220 responsiveness to policyholders, applicants, and agents; and
221 matters relating to depopulation.

222 5. Must provide a procedure for determining the eligibility
223 of a risk for coverage, as follows:

224 a. Subject to s. 627.3517, with respect to personal lines
225 residential risks, if the risk is offered coverage from an
226 authorized insurer at the insurer's approved rate under a
227 standard policy including wind coverage or, if consistent with
228 the insurer's underwriting rules as filed with the office, a
229 basic policy including wind coverage, for a new application to
230 the corporation for coverage, the risk is not eligible for any
231 policy issued by the corporation unless the premium for coverage
232 from the authorized insurer is more than 15 percent greater than
233 the premium for comparable coverage from the corporation.
234 Whenever an offer of coverage for a personal lines residential
235 risk is received for a policyholder of the corporation at
236 renewal from an authorized insurer, if the offer is equal to or
237 less than the corporation's renewal premium for comparable
238 coverage, the risk is not eligible for coverage with the
239 corporation. If the risk is not able to obtain such offer, the
240 risk is eligible for a standard policy including wind coverage
241 or a basic policy including wind coverage issued by the
242 corporation; however, if the risk could not be insured under a



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243 standard policy including wind coverage regardless of market
244 conditions, the risk is eligible for a basic policy including
245 wind coverage unless rejected under subparagraph 8. However, a
246 policyholder removed from the corporation through an assumption
247 agreement remains eligible for coverage from the corporation
248 until the end of the assumption period. The corporation shall
249 determine the type of policy to be provided on the basis of
250 objective standards specified in the underwriting manual and
251 based on generally accepted underwriting practices.

252 (I) If the risk accepts an offer of coverage through the
253 market assistance plan or through a mechanism established by the
254 corporation other than a plan established by s. 627.3518, before
255 a policy is issued to the risk by the corporation or during the
256 first 30 days of coverage by the corporation, and the producing
257 agent who submitted the application to the plan or to the
258 corporation is not currently appointed by the insurer, the
259 insurer shall:

260 (A) Pay to the producing agent of record of the policy for
261 the first year, an amount that is the greater of the insurer's
262 usual and customary commission for the type of policy written or
263 a fee equal to the usual and customary commission of the
264 corporation; or

265 (B) Offer to allow the producing agent of record of the
266 policy to continue servicing the policy for at least 1 year and
267 offer to pay the agent the greater of the insurer's or the
268 corporation's usual and customary commission for the type of
269 policy written.

270
271 If the producing agent is unwilling or unable to accept



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272 appointment, the new insurer shall pay the agent in accordance
273 with sub-sub-sub-subparagraph (A).

274 (II) If the corporation enters into a contractual agreement
275 for a take-out plan, the producing agent of record of the
276 corporation policy is entitled to retain any unearned commission
277 on the policy, and the insurer shall:

278 (A) Pay to the producing agent of record, for the first
279 year, an amount that is the greater of the insurer's usual and
280 customary commission for the type of policy written or a fee
281 equal to the usual and customary commission of the corporation;
282 or

283 (B) Offer to allow the producing agent of record to
284 continue servicing the policy for at least 1 year and offer to
285 pay the agent the greater of the insurer's or the corporation's
286 usual and customary commission for the type of policy written.

287
288 If the producing agent is unwilling or unable to accept
289 appointment, the new insurer shall pay the agent in accordance
290 with sub-sub-sub-subparagraph (A).

291 b. With respect to commercial lines residential risks, for
292 a new application to the corporation for coverage, if the risk
293 is offered coverage under a policy including wind coverage from
294 an authorized insurer at its approved rate, the risk is not
295 eligible for a policy issued by the corporation unless the
296 premium for coverage from the authorized insurer is more than 15
297 percent greater than the premium for comparable coverage from
298 the corporation. Whenever an offer of coverage for a commercial
299 lines residential risk is received for a policyholder of the
300 corporation at renewal from an authorized insurer, if the offer



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301 is equal to or less than the corporation's renewal premium for
302 comparable coverage, the risk is not eligible for coverage with
303 the corporation. If the risk is not able to obtain any such
304 offer, the risk is eligible for a policy including wind coverage
305 issued by the corporation. However, a policyholder removed from
306 the corporation through an assumption agreement remains eligible
307 for coverage from the corporation until the end of the
308 assumption period.

309 (I) If the risk accepts an offer of coverage through the
310 market assistance plan or through a mechanism established by the
311 corporation other than a plan established by s. 627.3518, before
312 a policy is issued to the risk by the corporation or during the
313 first 30 days of coverage by the corporation, and the producing
314 agent who submitted the application to the plan or the
315 corporation is not currently appointed by the insurer, the
316 insurer shall:

317 (A) Pay to the producing agent of record of the policy, for
318 the first year, an amount that is the greater of the insurer's
319 usual and customary commission for the type of policy written or
320 a fee equal to the usual and customary commission of the
321 corporation; or

322 (B) Offer to allow the producing agent of record of the
323 policy to continue servicing the policy for at least 1 year and
324 offer to pay the agent the greater of the insurer's or the
325 corporation's usual and customary commission for the type of
326 policy written.

327
328 If the producing agent is unwilling or unable to accept
329 appointment, the new insurer shall pay the agent in accordance



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330 with sub-sub-sub-subparagraph (A).

331 (II) If the corporation enters into a contractual agreement
332 for a take-out plan, the producing agent of record of the
333 corporation policy is entitled to retain any unearned commission
334 on the policy, and the insurer shall:

335 (A) Pay to the producing agent of record, for the first
336 year, an amount that is the greater of the insurer's usual and
337 customary commission for the type of policy written or a fee
338 equal to the usual and customary commission of the corporation;
339 or

340 (B) Offer to allow the producing agent of record to
341 continue servicing the policy for at least 1 year and offer to
342 pay the agent the greater of the insurer's or the corporation's
343 usual and customary commission for the type of policy written.

344
345 If the producing agent is unwilling or unable to accept
346 appointment, the new insurer shall pay the agent in accordance
347 with sub-sub-sub-subparagraph (A).

348 c. For purposes of determining comparable coverage under
349 sub-subparagraphs a. and b., the comparison must be based on
350 those forms and coverages that are reasonably comparable. The
351 corporation may rely on a determination of comparable coverage
352 and premium made by the producing agent who submits the
353 application to the corporation, made in the agent's capacity as
354 the corporation's agent. A comparison may be made solely of the
355 premium with respect to the main building or structure only on
356 the following basis: the same coverage A or other building
357 limits; the same percentage hurricane deductible that applies on
358 an annual basis or that applies to each hurricane for commercial



359 residential property; the same percentage of ordinance and law
360 coverage, if the same limit is offered by both the corporation
361 and the authorized insurer; the same mitigation credits, to the
362 extent the same types of credits are offered both by the
363 corporation and the authorized insurer; the same method for loss
364 payment, such as replacement cost or actual cash value, if the
365 same method is offered both by the corporation and the
366 authorized insurer in accordance with underwriting rules; and
367 any other form or coverage that is reasonably comparable as
368 determined by the board. If an application is submitted to the
369 corporation for wind-only coverage in the coastal account, the
370 premium for the corporation's wind-only policy plus the premium
371 for the ex-wind policy that is offered by an authorized insurer
372 to the applicant must be compared to the premium for multiperil
373 coverage offered by an authorized insurer, subject to the
374 standards for comparison specified in this subparagraph. If the
375 corporation or the applicant requests from the authorized
376 insurer a breakdown of the premium of the offer by types of
377 coverage so that a comparison may be made by the corporation or
378 its agent and the authorized insurer refuses or is unable to
379 provide such information, the corporation may treat the offer as
380 not being an offer of coverage from an authorized insurer at the
381 insurer's approved rate.

382 6. Must include rules for classifications of risks and
383 rates.

384 7. Must provide that if premium and investment income for
385 an account attributable to a particular calendar year are in
386 excess of projected losses and expenses for the account
387 attributable to that year, such excess shall be held in surplus



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388 in the account. Such surplus must be available to defray
389 deficits in that account as to future years and used for that
390 purpose before assessing assessable insurers and assessable
391 insureds as to any calendar year.

392 8. Must provide objective criteria and procedures to be
393 uniformly applied to all applicants in determining whether an
394 individual risk is so hazardous as to be uninsurable. In making
395 this determination and in establishing the criteria and
396 procedures, the following must be considered:

397 a. Whether the likelihood of a loss for the individual risk
398 is substantially higher than for other risks of the same class;
399 and

400 b. Whether the uncertainty associated with the individual
401 risk is such that an appropriate premium cannot be determined.

402

403 The acceptance or rejection of a risk by the corporation shall
404 be construed as the private placement of insurance, and the
405 provisions of chapter 120 do not apply.

406 9. Must provide that the corporation make its best efforts
407 to procure catastrophe reinsurance at reasonable rates, to cover
408 its projected 100-year probable maximum loss as determined by
409 the board of governors.

410 10. The policies issued by the corporation must provide
411 that if the corporation or the market assistance plan obtains an
412 offer from an authorized insurer to cover the risk at its
413 approved rates, the risk is no longer eligible for renewal
414 through the corporation, except as otherwise provided in this
415 subsection.

416 11. Corporation policies and applications must include a



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417 notice that the corporation policy could, under this section, be
418 replaced with a policy issued by an authorized insurer which
419 does not provide coverage identical to the coverage provided by
420 the corporation. The notice must also specify that acceptance of
421 corporation coverage creates a conclusive presumption that the
422 applicant or policyholder is aware of this potential.

423 12. May establish, subject to approval by the office,
424 different eligibility requirements and operational procedures
425 for any line or type of coverage for any specified county or
426 area if the board determines that such changes are justified due
427 to the voluntary market being sufficiently stable and
428 competitive in such area or for such line or type of coverage
429 and that consumers who, in good faith, are unable to obtain
430 insurance through the voluntary market through ordinary methods
431 continue to have access to coverage from the corporation. If
432 coverage is sought in connection with a real property transfer,
433 the requirements and procedures may not provide an effective
434 date of coverage later than the date of the closing of the
435 transfer as established by the transferor, the transferee, and,
436 if applicable, the lender.

437 13. Must provide that, with respect to the coastal account,
438 any assessable insurer with a surplus as to policyholders of \$25
439 million or less writing 25 percent or more of its total
440 countrywide property insurance premiums in this state may
441 petition the office, within the first 90 days of each calendar
442 year, to qualify as a limited apportionment company. A regular
443 assessment levied by the corporation on a limited apportionment
444 company for a deficit incurred by the corporation for the
445 coastal account may be paid to the corporation on a monthly



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446 basis as the assessments are collected by the limited
447 apportionment company from its insureds, but a limited
448 apportionment company must begin collecting the regular
449 assessments not later than 90 days after the regular assessments
450 are levied by the corporation, and the regular assessments must
451 be paid in full within 15 months after being levied by the
452 corporation. A limited apportionment company shall collect from
453 its policyholders any emergency assessment imposed under sub-
454 subparagraph (b)3.d. The plan must provide that, if the office
455 determines that any regular assessment will result in an
456 impairment of the surplus of a limited apportionment company,
457 the office may direct that all or part of such assessment be
458 deferred as provided in subparagraph (q)4. However, an emergency
459 assessment to be collected from policyholders under sub-
460 subparagraph (b)3.d. may not be limited or deferred.

461 14. Must provide that the corporation appoint as its
462 licensed agents only those agents who throughout such
463 appointments also hold an appointment as defined in s.
464 626.015(3) by ~~with~~ an insurer who ~~at the time of the agent's~~
465 ~~initial appointment by the corporation~~ is authorized to write
466 and is actually writing or renewing personal lines residential
467 property coverage, commercial residential property coverage, or
468 commercial nonresidential property coverage within the state.

469 15. Must provide a premium payment plan option to its
470 policyholders which, at a minimum, allows for quarterly and
471 semiannual payment of premiums. A monthly payment plan may, but
472 is not required to, be offered.

473 16. Must limit coverage on mobile homes or manufactured
474 homes built before 1994 to actual cash value of the dwelling



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475 rather than replacement costs of the dwelling.

476 17. Must provide coverage for manufactured or mobile home
477 dwellings. Such coverage must also include the following
478 attached structures:

479 a. Screened enclosures that are aluminum framed or screened
480 enclosures that are not covered by the same or substantially the
481 same materials as those of the primary dwelling;

482 b. Carports that are aluminum or carports that are not
483 covered by the same or substantially the same materials as those
484 of the primary dwelling; and

485 c. Patios that have a roof covering that is constructed of
486 materials that are not the same or substantially the same
487 materials as those of the primary dwelling.

488

489 The corporation shall make available a policy for mobile homes
490 or manufactured homes for a minimum insured value of at least
491 \$3,000.

492 18. May provide such limits of coverage as the board
493 determines, consistent with the requirements of this subsection.

494 19. May require commercial property to meet specified
495 hurricane mitigation construction features as a condition of
496 eligibility for coverage.

497 20. Must provide that new or renewal policies issued by the
498 corporation on or after January 1, 2012, which cover sinkhole
499 loss do not include coverage for any loss to appurtenant
500 structures, driveways, sidewalks, decks, or patios that are
501 directly or indirectly caused by sinkhole activity. The
502 corporation shall exclude such coverage using a notice of
503 coverage change, which may be included with the policy renewal,



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504 and not by issuance of a notice of nonrenewal of the excluded
505 coverage upon renewal of the current policy.

506 21. As of January 1, 2012, must require that the agent
507 obtain from an applicant for coverage from the corporation an
508 acknowledgment signed by the applicant, which includes, at a
509 minimum, the following statement:

510 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

511 AND ASSESSMENT LIABILITY:

512 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
513 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
514 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
515 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
516 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
517 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
518 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
519 LEGISLATURE.

520 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
521 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
522 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
523 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
524 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
525 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
526 ARE REGULATED AND APPROVED BY THE STATE.

527 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
528 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
529 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
530 FLORIDA LEGISLATURE.

531 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
532 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE



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533 STATE OF FLORIDA.

534 a. The corporation shall maintain, in electronic format or
535 otherwise, a copy of the applicant's signed acknowledgment and
536 provide a copy of the statement to the policyholder as part of
537 the first renewal after the effective date of this subparagraph.

538 b. The signed acknowledgment form creates a conclusive
539 presumption that the policyholder understood and accepted his or
540 her potential surcharge and assessment liability as a
541 policyholder of the corporation.

542 (n)1. Rates for coverage provided by the corporation must
543 be actuarially sound and subject to s. 627.062, except as
544 otherwise provided in this paragraph. The corporation shall file
545 its recommended rates with the office at least annually. The
546 corporation shall provide any additional information regarding
547 the rates which the office requires. The office shall consider
548 the recommendations of the board and issue a final order
549 establishing the rates for the corporation within 45 days after
550 the recommended rates are filed. The corporation may not pursue
551 an administrative challenge or judicial review of the final
552 order of the office.

553 2. In addition to the rates otherwise determined pursuant
554 to this paragraph, the corporation shall impose and collect an
555 amount equal to the premium tax provided in s. 624.509 to
556 augment the financial resources of the corporation.

557 3. After the public hurricane loss-projection model under
558 s. 627.06281 has been found to be accurate and reliable by the
559 Florida Commission on Hurricane Loss Projection Methodology, the
560 model shall be considered when establishing ~~serve as the minimum~~
561 ~~benchmark for determining~~ the windstorm portion of the



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562 corporation's rates. The corporation may use the public model
563 results in combination with the results of private models to
564 calculate rates for the windstorm portion of the corporation's
565 rates. This subparagraph does not require or allow the
566 corporation to adopt rates lower than the rates otherwise
567 required or allowed by this paragraph.

568 4. The rate filings for the corporation which were approved
569 by the office and took effect January 1, 2007, are rescinded,
570 except for those rates that were lowered. As soon as possible,
571 the corporation shall begin using the lower rates that were in
572 effect on December 31, 2006, and provide refunds to
573 policyholders who paid higher rates as a result of that rate
574 filing. The rates in effect on December 31, 2006, remain in
575 effect for the 2007 and 2008 calendar years except for any rate
576 change that results in a lower rate. The next rate change that
577 may increase rates shall take effect pursuant to a new rate
578 filing recommended by the corporation and established by the
579 office, subject to this paragraph.

580 5. Beginning on July 15, 2009, and annually thereafter, the
581 corporation must make a recommended actuarially sound rate
582 filing for each personal and commercial line of business it
583 writes, to be effective no earlier than January 1, 2010.

584 6. Beginning on or after January 1, 2010, and
585 notwithstanding the board's recommended rates and the office's
586 final order regarding the corporation's filed rates under
587 subparagraph 1., the corporation shall annually implement a rate
588 increase which, except for sinkhole coverage, does not exceed 10
589 percent for any single policy issued by the corporation,
590 excluding coverage changes and surcharges.



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591 7. The corporation may also implement an increase to
592 reflect the effect on the corporation of the cash buildup factor
593 pursuant to s. 215.555(5)(b).

594 8. The corporation's implementation of rates as prescribed
595 in subparagraph 6. shall cease for any line of business written
596 by the corporation upon the corporation's implementation of
597 actuarially sound rates. Thereafter, the corporation shall
598 annually make a recommended actuarially sound rate filing for
599 each commercial and personal line of business the corporation
600 writes.

601 (x)1. The following records of the corporation are
602 confidential and exempt from the provisions of s. 119.07(1) and
603 s. 24(a), Art. I of the State Constitution:

604 a. Underwriting files, except that a policyholder or an
605 applicant shall have access to his or her own underwriting
606 files. Confidential and exempt underwriting file records may
607 also be released to other governmental agencies upon written
608 request and demonstration of need; such records held by the
609 receiving agency remain confidential and exempt as provided
610 herein.

611 b. Claims files, until termination of all litigation and
612 settlement of all claims arising out of the same incident,
613 although portions of the claims files may remain exempt, as
614 otherwise provided by law. Confidential and exempt claims file
615 records may be released to other governmental agencies upon
616 written request and demonstration of need; such records held by
617 the receiving agency remain confidential and exempt as provided
618 herein.

619 c. Records obtained or generated by an internal auditor



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620 pursuant to a routine audit, until the audit is completed, or if
621 the audit is conducted as part of an investigation, until the
622 investigation is closed or ceases to be active. An investigation
623 is considered "active" while the investigation is being
624 conducted with a reasonable, good faith belief that it could
625 lead to the filing of administrative, civil, or criminal
626 proceedings.

627 d. Matters reasonably encompassed in privileged attorney-
628 client communications.

629 e. Proprietary information licensed to the corporation
630 under contract and the contract provides for the confidentiality
631 of such proprietary information.

632 f. All information relating to the medical condition or
633 medical status of a corporation employee which is not relevant
634 to the employee's capacity to perform his or her duties, except
635 as otherwise provided in this paragraph. Information that is
636 exempt shall include, but is not limited to, information
637 relating to workers' compensation, insurance benefits, and
638 retirement or disability benefits.

639 g. Upon an employee's entrance into the employee assistance
640 program, a program to assist any employee who has a behavioral
641 or medical disorder, substance abuse problem, or emotional
642 difficulty that ~~which~~ affects the employee's job performance,
643 all records relative to that participation shall be confidential
644 and exempt from the provisions of s. 119.07(1) and s. 24(a),
645 Art. I of the State Constitution, except as otherwise provided
646 in s. 112.0455(11).

647 h. Information relating to negotiations for financing,
648 reinsurance, depopulation, or contractual services, until the



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649 conclusion of the negotiations.

650 i. Minutes of closed meetings regarding underwriting files,
651 and minutes of closed meetings regarding an open claims file
652 until termination of all litigation and settlement of all claims
653 with regard to that claim, except that information otherwise
654 confidential or exempt by law shall be redacted.

655 2. If an authorized insurer is considering underwriting a
656 risk insured by the corporation, relevant underwriting files and
657 confidential claims files may be released to the insurer
658 provided the insurer agrees in writing, notarized and under
659 oath, to maintain the confidentiality of such files. If a file
660 is transferred to an insurer, that file is no longer a public
661 record because it is not held by an agency subject to the
662 provisions of the public records law. Underwriting files and
663 confidential claims files may also be released to staff and the
664 board of governors of the market assistance plan established
665 pursuant to s. 627.3515, who must retain the confidentiality of
666 such files, except such files may be released to authorized
667 insurers that are considering assuming the risks to which the
668 files apply, provided the insurer agrees in writing, notarized
669 and under oath, to maintain the confidentiality of such files.
670 Finally, the corporation or the board or staff of the market
671 assistance plan may make the following information obtained from
672 underwriting files and confidential claims files available to an
673 entity that has obtained a permit to become an authorized
674 insurer, a reinsurer that may provide reinsurance under s.
675 624.610, a licensed reinsurance broker, or a modeling company
676 ~~licensed general lines insurance agents~~: name, address, and
677 telephone number of the residential property owner or insured;



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678 location of the risk; rating information; loss history; and
679 policy type. The receiving entity ~~licensed general lines~~
680 ~~insurance agent~~ must retain the confidentiality of the
681 information received and may use the information only for the
682 purposes of developing a take-out plan to be submitted to the
683 office for approval or otherwise analyzing the underwriting of a
684 risk or risks insured by the corporation on behalf of the
685 private insurance market.

686 3. A policyholder who has filed suit against the
687 corporation has the right to discover the contents of his or her
688 own claims file to the same extent that discovery of such
689 contents would be available from a private insurer in litigation
690 as provided by the Florida Rules of Civil Procedure, the Florida
691 Evidence Code, and other applicable law. Pursuant to subpoena, a
692 third party has the right to discover the contents of an
693 insured's or applicant's underwriting or claims file to the same
694 extent that discovery of such contents would be available from a
695 private insurer by subpoena as provided by the Florida Rules of
696 Civil Procedure, the Florida Evidence Code, and other applicable
697 law, and subject to any confidentiality protections requested by
698 the corporation and agreed to by the seeking party or ordered by
699 the court. The corporation may release confidential underwriting
700 and claims file contents and information as it deems necessary
701 and appropriate to underwrite or service insurance policies and
702 claims, subject to any confidentiality protections deemed
703 necessary and appropriate by the corporation.

704 4. Portions of meetings of the corporation are exempt from
705 the provisions of s. 286.011 and s. 24(b), Art. I of the State
706 Constitution wherein confidential underwriting files or



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707 confidential open claims files are discussed. All portions of
708 corporation meetings which are closed to the public shall be
709 recorded by a court reporter. The court reporter shall record
710 the times of commencement and termination of the meeting, all
711 discussion and proceedings, the names of all persons present at
712 any time, and the names of all persons speaking. No portion of
713 any closed meeting shall be off the record. Subject to the
714 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
715 notes of any closed meeting shall be retained by the corporation
716 for a minimum of 5 years. A copy of the transcript, less any
717 exempt matters, of any closed meeting wherein claims are
718 discussed shall become public as to individual claims after
719 settlement of the claim.

720 (ii) The corporation shall revise the programs adopted
721 pursuant to sub-subparagraph (q)3.a. for personal lines
722 residential policies to maximize policyholder options and
723 encourage increased participation by insurers and agents. Such
724 revisions must comply with this paragraph no later than January
725 1, 2017.

726 1. The corporation must schedule no more than 6 cycles per
727 year during which insurers may identify policies they wish to
728 take out and may submit requests to take out such policies to
729 the corporation in a form and manner prescribed by the
730 corporation. An insurer's take-out request must include a
731 description of the coverages offered and an estimated premium.
732 In submitting any take-out request, an insurer must agree that
733 the initial premium of the insurer after assumption will not
734 exceed its estimated premium by more than 10 percent, excluding
735 coverage changes, surcharges, and assessments.



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736 2. For each policy of the corporation identified under
737 subparagraph 1., the corporation shall maintain and make
738 available to the agent of record a consolidated list of all
739 insurers requesting the policy. The list must contain the
740 information described in subparagraph 1.

741 3. The corporation shall provide written notice to its
742 policyholders and the agents of record informing them of their
743 option to accept one of the take-out offers presented or to
744 remain with the corporation. The notice must be in a format
745 prescribed by the corporation and include the amount of the
746 estimated premium for the coverage of each offering insurer, the
747 amount of the premium for the coverage provided by the
748 corporation, and a description of the coverage offered by each
749 insurer and the coverage provided by the corporation, which
750 includes an explanation of any differences among the coverage
751 offered by each insurer and the coverage provided by the
752 corporation.

753 Section 2. Subsection (5) of section 627.3518, Florida
754 Statutes, is amended to read:

755 627.3518 Citizens Property Insurance Corporation
756 policyholder eligibility clearinghouse program.—The purpose of
757 this section is to provide a framework for the corporation to
758 implement a clearinghouse program by January 1, 2014.

759 (5) Notwithstanding s. 627.3517, any applicant for new
760 coverage from the corporation is not eligible for coverage from
761 the corporation if provided an offer of coverage from an
762 authorized insurer through the program at a premium that is at
763 or below the eligibility threshold established in s.
764 627.351(6)(c)5.a. Whenever an offer of coverage for a personal



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765 lines risk is received for a policyholder of the corporation at
766 renewal from an authorized insurer through the program, if the
767 offer is equal to or less than the corporation's renewal premium
768 for comparable coverage, the risk is not eligible for coverage
769 with the corporation. In the event an offer of coverage for a
770 new applicant is received from an authorized insurer through the
771 program, and the premium offered exceeds the eligibility
772 threshold contained in s. 627.351(6)(c)5.a., the applicant or
773 insured may elect to accept such coverage, or may elect to
774 accept or continue coverage with the corporation. In the event
775 an offer of coverage for a personal lines risk is received from
776 an authorized insurer at renewal through the program, and the
777 premium offered is more than the corporation's renewal premium
778 for comparable coverage, the insured may elect to accept such
779 coverage, or may elect to accept or continue coverage with the
780 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
781 offer of coverage from an authorized insurer obtained through
782 the program. An applicant for coverage from the corporation who
783 in the previous 36 months has been assumed through a take-out
784 offer from an insurer or who was declared ineligible for
785 coverage at renewal by the corporation in the previous 36 months
786 due to an offer of coverage pursuant to this subsection shall be
787 considered a renewal under this section if the corporation
788 determines that the same authorized insurer making the offer of
789 coverage ~~pursuant to this subsection~~ continues to insure the
790 applicant and increased the rate on the policy in excess of the
791 increase allowed for the corporation under s. 627.351(6)(n)6.

792 Section 3. This act shall take effect July 1, 2016.

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

795 And the title is amended as follows:

796 Delete everything before the enacting clause

797 and insert:

798 A bill to be entitled

799 An act relating to operations of the Citizens Property
800 Insurance Corporation; amending s. 627.351, F.S.;

801 specifying that a consumer representative appointed by
802 the Governor to the Citizens Property Insurance

803 Corporation's board of governors is not prohibited

804 from practicing in a certain profession if required or
805 permitted by law or ordinance; revising the

806 requirements for licensed agents of the corporation;

807 revising provisions related to the corporation's use

808 of certain public and private hurricane loss-

809 projection models in establishing certain rates;

810 revising a provision to permit specified information

811 from certain underwriting and claims files to be made

812 available to certain entities, rather than licensed

813 general lines insurance agents; providing limitations

814 for the use of such information by the entities;

815 requiring the take-out program to be revised for

816 specified purposes by a specified date; requiring the

817 corporation to schedule up to a certain number of

818 cycles annually during which insurers may identify and

819 submit policy take-out requests; specifying

820 information required to be included in such requests;

821 providing conditions that must be agreed to by

822 insurers submitting a request; requiring the



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823 corporation to maintain and make available specified
824 lists of insurers to its agents of record; requiring
825 the corporation to provide policyholders and the
826 agents of record with a specified notice regarding
827 their policy renewal options; amending s. 627.3518,
828 F.S.; revising criteria for when an applicant for
829 coverage from the corporation shall be considered a
830 renewal; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
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	.	

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

Senate Amendment to Amendment (586788)

Delete line 732

and insert:

In submitting any take-out request, an insurer must agree to offer comparable coverage to that offered by the corporation and that

By Senator Flores

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A bill to be entitled

An act relating to operations of the Citizens Property Insurance Corporation; amending s. 627.0655, F.S.; revising certain policyholder loss or expense-related premium discounts; amending s. 627.351, F.S.; specifying that a consumer representative appointed by the Governor to the Citizens Property Insurance Corporation's board of governors is not prohibited from practicing in a certain profession if required or permitted by law or ordinance; revising the requirements for licensed agents of the corporation; revising a provision to permit specified information from certain underwriting and claims files to be made available to authorized insurers, rather than licensed general lines insurance agents; providing requirements and limitations for the use of such information by certain entities; requiring the take-out program to be revised for specified purposes by a specified date; prohibiting an insurer from taking out policies after such date except under certain conditions; requiring the corporation to schedule up to a certain number of cycles annually during which insurers may identify and submit policy take-out requests; specifying information required to be included in such requests; providing conditions that must be agreed to by insurers submitting a request; requiring the corporation to maintain and make available specified lists of insurers to its agents of record; requiring the corporation, through its agents of record, to provide policyholders with a notice regarding their policy renewal options; specifying information required to be included in the notice; providing that

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a policyholder who accepts a take-out offer during a specified time is considered a renewal policyholder under certain circumstances; providing an effective date.

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

Section 1. Section 627.0655, Florida Statutes, is amended to read:

627.0655 Policyholder loss or expense-related premium discounts.—An insurer or person authorized to engage in the business of insurance in this state may include, in the premium charged an insured for any policy, contract, or certificate of insurance, a discount based on the fact that another policy, contract, or certificate of any type has been purchased by the insured from the same insurer or insurer group, ~~the Citizens Property Insurance Corporation created under s. 627.351(6) if the same insurance agent is servicing both policies, or an insurer that has removed the policy from the Citizens Property Insurance Corporation if the same insurance agent is servicing both policies.~~

Section 2. Paragraphs (c) and (x) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ii) is added to that subsection, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(c) The corporation's plan of operation:

1. Must provide for adoption of residential property and casualty insurance policy forms and commercial residential and

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62 nonresidential property insurance forms, which must be approved
 63 by the office before use. The corporation shall adopt the
 64 following policy forms:

65 a. Standard personal lines policy forms that are
 66 comprehensive multiperil policies providing full coverage of a
 67 residential property equivalent to the coverage provided in the
 68 private insurance market under an HO-3, HO-4, or HO-6 policy.

69 b. Basic personal lines policy forms that are policies
 70 similar to an HO-8 policy or a dwelling fire policy that provide
 71 coverage meeting the requirements of the secondary mortgage
 72 market, but which is more limited than the coverage under a
 73 standard policy.

74 c. Commercial lines residential and nonresidential policy
 75 forms that are generally similar to the basic perils of full
 76 coverage obtainable for commercial residential structures and
 77 commercial nonresidential structures in the admitted voluntary
 78 market.

79 d. Personal lines and commercial lines residential property
 80 insurance forms that cover the peril of wind only. The forms are
 81 applicable only to residential properties located in areas
 82 eligible for coverage under the coastal account referred to in
 83 sub-subparagraph (b)2.a.

84 e. Commercial lines nonresidential property insurance forms
 85 that cover the peril of wind only. The forms are applicable only
 86 to nonresidential properties located in areas eligible for
 87 coverage under the coastal account referred to in sub-
 88 subparagraph (b)2.a.

89 f. The corporation may adopt variations of the policy forms
 90 listed in sub-subparagraphs a.-e. which contain more restrictive

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91 coverage.

92 g. Effective January 1, 2013, the corporation shall offer a
 93 basic personal lines policy similar to an HO-8 policy with
 94 dwelling repair based on common construction materials and
 95 methods.

96 2. Must provide that the corporation adopt a program in
 97 which the corporation and authorized insurers enter into quota
 98 share primary insurance agreements for hurricane coverage, as
 99 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 100 property insurance forms for eligible risks which cover the
 101 peril of wind only.

102 a. As used in this subsection, the term:

103 (I) "Quota share primary insurance" means an arrangement in
 104 which the primary hurricane coverage of an eligible risk is
 105 provided in specified percentages by the corporation and an
 106 authorized insurer. The corporation and authorized insurer are
 107 each solely responsible for a specified percentage of hurricane
 108 coverage of an eligible risk as set forth in a quota share
 109 primary insurance agreement between the corporation and an
 110 authorized insurer and the insurance contract. The
 111 responsibility of the corporation or authorized insurer to pay
 112 its specified percentage of hurricane losses of an eligible
 113 risk, as set forth in the agreement, may not be altered by the
 114 inability of the other party to pay its specified percentage of
 115 losses. Eligible risks that are provided hurricane coverage
 116 through a quota share primary insurance arrangement must be
 117 provided policy forms that set forth the obligations of the
 118 corporation and authorized insurer under the arrangement,
 119 clearly specify the percentages of quota share primary insurance

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120 provided by the corporation and authorized insurer, and
 121 conspicuously and clearly state that the authorized insurer and
 122 the corporation may not be held responsible beyond their
 123 specified percentage of coverage of hurricane losses.

124 (II) "Eligible risks" means personal lines residential and
 125 commercial lines residential risks that meet the underwriting
 126 criteria of the corporation and are located in areas that were
 127 eligible for coverage by the Florida Windstorm Underwriting
 128 Association on January 1, 2002.

129 b. The corporation may enter into quota share primary
 130 insurance agreements with authorized insurers at corporation
 131 coverage levels of 90 percent and 50 percent.

132 c. If the corporation determines that additional coverage
 133 levels are necessary to maximize participation in quota share
 134 primary insurance agreements by authorized insurers, the
 135 corporation may establish additional coverage levels. However,
 136 the corporation's quota share primary insurance coverage level
 137 may not exceed 90 percent.

138 d. Any quota share primary insurance agreement entered into
 139 between an authorized insurer and the corporation must provide
 140 for a uniform specified percentage of coverage of hurricane
 141 losses, by county or territory as set forth by the corporation
 142 board, for all eligible risks of the authorized insurer covered
 143 under the agreement.

144 e. Any quota share primary insurance agreement entered into
 145 between an authorized insurer and the corporation is subject to
 146 review and approval by the office. However, such agreement shall
 147 be authorized only as to insurance contracts entered into
 148 between an authorized insurer and an insured who is already

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149 insured by the corporation for wind coverage.

150 f. For all eligible risks covered under quota share primary
 151 insurance agreements, the exposure and coverage levels for both
 152 the corporation and authorized insurers shall be reported by the
 153 corporation to the Florida Hurricane Catastrophe Fund. For all
 154 policies of eligible risks covered under such agreements, the
 155 corporation and the authorized insurer must maintain complete
 156 and accurate records for the purpose of exposure and loss
 157 reimbursement audits as required by fund rules. The corporation
 158 and the authorized insurer shall each maintain duplicate copies
 159 of policy declaration pages and supporting claims documents.

160 g. The corporation board shall establish in its plan of
 161 operation standards for quota share agreements which ensure that
 162 there is no discriminatory application among insurers as to the
 163 terms of the agreements, pricing of the agreements, incentive
 164 provisions if any, and consideration paid for servicing policies
 165 or adjusting claims.

166 h. The quota share primary insurance agreement between the
 167 corporation and an authorized insurer must set forth the
 168 specific terms under which coverage is provided, including, but
 169 not limited to, the sale and servicing of policies issued under
 170 the agreement by the insurance agent of the authorized insurer
 171 producing the business, the reporting of information concerning
 172 eligible risks, the payment of premium to the corporation, and
 173 arrangements for the adjustment and payment of hurricane claims
 174 incurred on eligible risks by the claims adjuster and personnel
 175 of the authorized insurer. Entering into a quota sharing
 176 insurance agreement between the corporation and an authorized
 177 insurer is voluntary and at the discretion of the authorized

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insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation may borrow funds by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (q)2. in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation may take all actions needed to facilitate tax-free status for such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation may pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature

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that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of nine individuals who are residents of this state and who are from different geographical areas of the state, one of whom is appointed by the Governor and serves solely to advocate on behalf of the consumer. The appointment of a consumer representative by the Governor is deemed to be within the scope of the exemption provided in s. 112.313(7)(b) and is in addition to the appointments authorized under sub-subparagraph a.

a. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance and be deemed to be within the scope of the exemption provided in s. 112.313(7)(b). The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. However, for the first term beginning on or after July 1, 2009, each appointing officer shall appoint one member of the board for a 2-year term and one member for a 3-year term. A board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group

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236 to provide information and advice to the board in connection
 237 with the board's duties under this subsection. The executive
 238 director and senior managers of the corporation shall be engaged
 239 by the board and serve at the pleasure of the board. Any
 240 executive director appointed on or after July 1, 2006, is
 241 subject to confirmation by the Senate. The executive director is
 242 responsible for employing other staff as the corporation may
 243 require, subject to review and concurrence by the board.

244 b. The board shall create a Market Accountability Advisory
 245 Committee to assist the corporation in developing awareness of
 246 its rates and its customer and agent service levels in
 247 relationship to the voluntary market insurers writing similar
 248 coverage.

249 (I) The members of the advisory committee consist of the
 250 following 11 persons, one of whom must be elected chair by the
 251 members of the committee: four representatives, one appointed by
 252 the Florida Association of Insurance Agents, one by the Florida
 253 Association of Insurance and Financial Advisors, one by the
 254 Professional Insurance Agents of Florida, and one by the Latin
 255 American Association of Insurance Agencies; three
 256 representatives appointed by the insurers with the three highest
 257 voluntary market share of residential property insurance
 258 business in the state; one representative from the Office of
 259 Insurance Regulation; one consumer appointed by the board who is
 260 insured by the corporation at the time of appointment to the
 261 committee; one representative appointed by the Florida
 262 Association of Realtors; and one representative appointed by the
 263 Florida Bankers Association. All members shall be appointed to
 264 3-year terms and may serve for consecutive terms.

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265 (II) The committee shall report to the corporation at each
 266 board meeting on insurance market issues which may include rates
 267 and rate competition with the voluntary market; service,
 268 including policy issuance, claims processing, and general
 269 responsiveness to policyholders, applicants, and agents; and
 270 matters relating to depopulation.

271 5. Must provide a procedure for determining the eligibility
 272 of a risk for coverage, as follows:

273 a. Subject to s. 627.3517, with respect to personal lines
 274 residential risks, if the risk is offered coverage from an
 275 authorized insurer at the insurer's approved rate under a
 276 standard policy including wind coverage or, if consistent with
 277 the insurer's underwriting rules as filed with the office, a
 278 basic policy including wind coverage, for a new application to
 279 the corporation for coverage, the risk is not eligible for any
 280 policy issued by the corporation unless the premium for coverage
 281 from the authorized insurer is more than 15 percent greater than
 282 the premium for comparable coverage from the corporation.
 283 Whenever an offer of coverage for a personal lines residential
 284 risk is received for a policyholder of the corporation at
 285 renewal from an authorized insurer, if the offer is equal to or
 286 less than the corporation's renewal premium for comparable
 287 coverage, the risk is not eligible for coverage with the
 288 corporation. If the risk is not able to obtain such offer, the
 289 risk is eligible for a standard policy including wind coverage
 290 or a basic policy including wind coverage issued by the
 291 corporation; however, if the risk could not be insured under a
 292 standard policy including wind coverage regardless of market
 293 conditions, the risk is eligible for a basic policy including

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294 wind coverage unless rejected under subparagraph 8. However, a
 295 policyholder removed from the corporation through an assumption
 296 agreement remains eligible for coverage from the corporation
 297 until the end of the assumption period. The corporation shall
 298 determine the type of policy to be provided on the basis of
 299 objective standards specified in the underwriting manual and
 300 based on generally accepted underwriting practices.

301 (I) If the risk accepts an offer of coverage through the
 302 market assistance plan or through a mechanism established by the
 303 corporation other than a plan established by s. 627.3518, before
 304 a policy is issued to the risk by the corporation or during the
 305 first 30 days of coverage by the corporation, and the producing
 306 agent who submitted the application to the plan or to the
 307 corporation is not currently appointed by the insurer, the
 308 insurer shall:

309 (A) Pay to the producing agent of record of the policy for
 310 the first year, an amount that is the greater of the insurer's
 311 usual and customary commission for the type of policy written or
 312 a fee equal to the usual and customary commission of the
 313 corporation; or

314 (B) Offer to allow the producing agent of record of the
 315 policy to continue servicing the policy for at least 1 year and
 316 offer to pay the agent the greater of the insurer's or the
 317 corporation's usual and customary commission for the type of
 318 policy written.

319
 320 If the producing agent is unwilling or unable to accept
 321 appointment, the new insurer shall pay the agent in accordance
 322 with sub-sub-sub-subparagraph (A).

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323 (II) If the corporation enters into a contractual agreement
 324 for a take-out plan, the producing agent of record of the
 325 corporation policy is entitled to retain any unearned commission
 326 on the policy, and the insurer shall:

327 (A) Pay to the producing agent of record, for the first
 328 year, an amount that is the greater of the insurer's usual and
 329 customary commission for the type of policy written or a fee
 330 equal to the usual and customary commission of the corporation;
 331 or

332 (B) Offer to allow the producing agent of record to
 333 continue servicing the policy for at least 1 year and offer to
 334 pay the agent the greater of the insurer's or the corporation's
 335 usual and customary commission for the type of policy written.

336
 337 If the producing agent is unwilling or unable to accept
 338 appointment, the new insurer shall pay the agent in accordance
 339 with sub-sub-sub-subparagraph (A).

340 b. With respect to commercial lines residential risks, for
 341 a new application to the corporation for coverage, if the risk
 342 is offered coverage under a policy including wind coverage from
 343 an authorized insurer at its approved rate, the risk is not
 344 eligible for a policy issued by the corporation unless the
 345 premium for coverage from the authorized insurer is more than 15
 346 percent greater than the premium for comparable coverage from
 347 the corporation. Whenever an offer of coverage for a commercial
 348 lines residential risk is received for a policyholder of the
 349 corporation at renewal from an authorized insurer, if the offer
 350 is equal to or less than the corporation's renewal premium for
 351 comparable coverage, the risk is not eligible for coverage with

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352 the corporation. If the risk is not able to obtain any such
 353 offer, the risk is eligible for a policy including wind coverage
 354 issued by the corporation. However, a policyholder removed from
 355 the corporation through an assumption agreement remains eligible
 356 for coverage from the corporation until the end of the
 357 assumption period.

358 (I) If the risk accepts an offer of coverage through the
 359 market assistance plan or through a mechanism established by the
 360 corporation other than a plan established by s. 627.3518, before
 361 a policy is issued to the risk by the corporation or during the
 362 first 30 days of coverage by the corporation, and the producing
 363 agent who submitted the application to the plan or the
 364 corporation is not currently appointed by the insurer, the
 365 insurer shall:

366 (A) Pay to the producing agent of record of the policy, for
 367 the first year, an amount that is the greater of the insurer's
 368 usual and customary commission for the type of policy written or
 369 a fee equal to the usual and customary commission of the
 370 corporation; or

371 (B) Offer to allow the producing agent of record of the
 372 policy to continue servicing the policy for at least 1 year and
 373 offer to pay the agent the greater of the insurer's or the
 374 corporation's usual and customary commission for the type of
 375 policy written.

376
 377 If the producing agent is unwilling or unable to accept
 378 appointment, the new insurer shall pay the agent in accordance
 379 with sub-sub-sub-subparagraph (A).

380 (II) If the corporation enters into a contractual agreement

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381 for a take-out plan, the producing agent of record of the
 382 corporation policy is entitled to retain any unearned commission
 383 on the policy, and the insurer shall:

384 (A) Pay to the producing agent of record, for the first
 385 year, an amount that is the greater of the insurer's usual and
 386 customary commission for the type of policy written or a fee
 387 equal to the usual and customary commission of the corporation;
 388 or

389 (B) Offer to allow the producing agent of record to
 390 continue servicing the policy for at least 1 year and offer to
 391 pay the agent the greater of the insurer's or the corporation's
 392 usual and customary commission for the type of policy written.

393
 394 If the producing agent is unwilling or unable to accept
 395 appointment, the new insurer shall pay the agent in accordance
 396 with sub-sub-sub-subparagraph (A).

397 c. For purposes of determining comparable coverage under
 398 sub-subparagraphs a. and b., the comparison must be based on
 399 those forms and coverages that are reasonably comparable. The
 400 corporation may rely on a determination of comparable coverage
 401 and premium made by the producing agent who submits the
 402 application to the corporation, made in the agent's capacity as
 403 the corporation's agent. A comparison may be made solely of the
 404 premium with respect to the main building or structure only on
 405 the following basis: the same coverage A or other building
 406 limits; the same percentage hurricane deductible that applies on
 407 an annual basis or that applies to each hurricane for commercial
 408 residential property; the same percentage of ordinance and law
 409 coverage, if the same limit is offered by both the corporation

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410 and the authorized insurer; the same mitigation credits, to the
 411 extent the same types of credits are offered both by the
 412 corporation and the authorized insurer; the same method for loss
 413 payment, such as replacement cost or actual cash value, if the
 414 same method is offered both by the corporation and the
 415 authorized insurer in accordance with underwriting rules; and
 416 any other form or coverage that is reasonably comparable as
 417 determined by the board. If an application is submitted to the
 418 corporation for wind-only coverage in the coastal account, the
 419 premium for the corporation's wind-only policy plus the premium
 420 for the ex-wind policy that is offered by an authorized insurer
 421 to the applicant must be compared to the premium for multiperil
 422 coverage offered by an authorized insurer, subject to the
 423 standards for comparison specified in this subparagraph. If the
 424 corporation or the applicant requests from the authorized
 425 insurer a breakdown of the premium of the offer by types of
 426 coverage so that a comparison may be made by the corporation or
 427 its agent and the authorized insurer refuses or is unable to
 428 provide such information, the corporation may treat the offer as
 429 not being an offer of coverage from an authorized insurer at the
 430 insurer's approved rate.

431 6. Must include rules for classifications of risks and
 432 rates.

433 7. Must provide that if premium and investment income for
 434 an account attributable to a particular calendar year are in
 435 excess of projected losses and expenses for the account
 436 attributable to that year, such excess shall be held in surplus
 437 in the account. Such surplus must be available to defray
 438 deficits in that account as to future years and used for that

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439 purpose before assessing assessable insurers and assessable
 440 insureds as to any calendar year.

441 8. Must provide objective criteria and procedures to be
 442 uniformly applied to all applicants in determining whether an
 443 individual risk is so hazardous as to be uninsurable. In making
 444 this determination and in establishing the criteria and
 445 procedures, the following must be considered:

446 a. Whether the likelihood of a loss for the individual risk
 447 is substantially higher than for other risks of the same class;
 448 and

449 b. Whether the uncertainty associated with the individual
 450 risk is such that an appropriate premium cannot be determined.

451
 452 The acceptance or rejection of a risk by the corporation shall
 453 be construed as the private placement of insurance, and the
 454 provisions of chapter 120 do not apply.

455 9. Must provide that the corporation make its best efforts
 456 to procure catastrophe reinsurance at reasonable rates, to cover
 457 its projected 100-year probable maximum loss as determined by
 458 the board of governors.

459 10. The policies issued by the corporation must provide
 460 that if the corporation or the market assistance plan obtains an
 461 offer from an authorized insurer to cover the risk at its
 462 approved rates, the risk is no longer eligible for renewal
 463 through the corporation, except as otherwise provided in this
 464 subsection.

465 11. Corporation policies and applications must include a
 466 notice that the corporation policy could, under this section, be
 467 replaced with a policy issued by an authorized insurer which

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468 does not provide coverage identical to the coverage provided by
 469 the corporation. The notice must also specify that acceptance of
 470 corporation coverage creates a conclusive presumption that the
 471 applicant or policyholder is aware of this potential.

472 12. May establish, subject to approval by the office,
 473 different eligibility requirements and operational procedures
 474 for any line or type of coverage for any specified county or
 475 area if the board determines that such changes are justified due
 476 to the voluntary market being sufficiently stable and
 477 competitive in such area or for such line or type of coverage
 478 and that consumers who, in good faith, are unable to obtain
 479 insurance through the voluntary market through ordinary methods
 480 continue to have access to coverage from the corporation. If
 481 coverage is sought in connection with a real property transfer,
 482 the requirements and procedures may not provide an effective
 483 date of coverage later than the date of the closing of the
 484 transfer as established by the transferor, the transferee, and,
 485 if applicable, the lender.

486 13. Must provide that, with respect to the coastal account,
 487 any assessable insurer with a surplus as to policyholders of \$25
 488 million or less writing 25 percent or more of its total
 489 countrywide property insurance premiums in this state may
 490 petition the office, within the first 90 days of each calendar
 491 year, to qualify as a limited apportionment company. A regular
 492 assessment levied by the corporation on a limited apportionment
 493 company for a deficit incurred by the corporation for the
 494 coastal account may be paid to the corporation on a monthly
 495 basis as the assessments are collected by the limited
 496 apportionment company from its insureds, but a limited

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497 apportionment company must begin collecting the regular
 498 assessments not later than 90 days after the regular assessments
 499 are levied by the corporation, and the regular assessments must
 500 be paid in full within 15 months after being levied by the
 501 corporation. A limited apportionment company shall collect from
 502 its policyholders any emergency assessment imposed under sub-
 503 subparagraph (b)3.d. The plan must provide that, if the office
 504 determines that any regular assessment will result in an
 505 impairment of the surplus of a limited apportionment company,
 506 the office may direct that all or part of such assessment be
 507 deferred as provided in subparagraph (q)4. However, an emergency
 508 assessment to be collected from policyholders under sub-
 509 subparagraph (b)3.d. may not be limited or deferred.

510 14. Must provide that the corporation appoint as its
 511 licensed agents only those agents who throughout such
 512 appointments also hold an appointment as defined in s.
 513 ~~626.015(3) by with an insurer who at the time of the agent's~~
 514 ~~initial appointment by the corporation~~ is authorized to write
 515 and is actually writing or renewing personal lines residential
 516 property coverage, commercial residential property coverage, or
 517 commercial nonresidential property coverage within the state.

518 15. Must provide a premium payment plan option to its
 519 policyholders which, at a minimum, allows for quarterly and
 520 semiannual payment of premiums. A monthly payment plan may, but
 521 is not required to, be offered.

522 16. Must limit coverage on mobile homes or manufactured
 523 homes built before 1994 to actual cash value of the dwelling
 524 rather than replacement costs of the dwelling.

525 17. Must provide coverage for manufactured or mobile home

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526 dwellings. Such coverage must also include the following
 527 attached structures:

528 a. Screened enclosures that are aluminum framed or screened
 529 enclosures that are not covered by the same or substantially the
 530 same materials as those of the primary dwelling;

531 b. Carports that are aluminum or carports that are not
 532 covered by the same or substantially the same materials as those
 533 of the primary dwelling; and

534 c. Patios that have a roof covering that is constructed of
 535 materials that are not the same or substantially the same
 536 materials as those of the primary dwelling.

537

538 The corporation shall make available a policy for mobile homes
 539 or manufactured homes for a minimum insured value of at least
 540 \$3,000.

541 18. May provide such limits of coverage as the board
 542 determines, consistent with the requirements of this subsection.

543 19. May require commercial property to meet specified
 544 hurricane mitigation construction features as a condition of
 545 eligibility for coverage.

546 20. Must provide that new or renewal policies issued by the
 547 corporation on or after January 1, 2012, which cover sinkhole
 548 loss do not include coverage for any loss to appurtenant
 549 structures, driveways, sidewalks, decks, or patios that are
 550 directly or indirectly caused by sinkhole activity. The
 551 corporation shall exclude such coverage using a notice of
 552 coverage change, which may be included with the policy renewal,
 553 and not by issuance of a notice of nonrenewal of the excluded
 554 coverage upon renewal of the current policy.

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555 21. As of January 1, 2012, must require that the agent
 556 obtain from an applicant for coverage from the corporation an
 557 acknowledgment signed by the applicant, which includes, at a
 558 minimum, the following statement:

559 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 560 AND ASSESSMENT LIABILITY:

561 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 562 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 563 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 564 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 565 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 566 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 567 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 568 LEGISLATURE.

569 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 570 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
 571 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
 572 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
 573 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
 574 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
 575 ARE REGULATED AND APPROVED BY THE STATE.

576 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 577 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 578 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 579 FLORIDA LEGISLATURE.

580 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 581 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 582 STATE OF FLORIDA.

583 a. The corporation shall maintain, in electronic format or

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584 otherwise, a copy of the applicant's signed acknowledgment and
 585 provide a copy of the statement to the policyholder as part of
 586 the first renewal after the effective date of this subparagraph.

587 b. The signed acknowledgment form creates a conclusive
 588 presumption that the policyholder understood and accepted his or
 589 her potential surcharge and assessment liability as a
 590 policyholder of the corporation.

591 (x)1. The following records of the corporation are
 592 confidential and exempt from the provisions of s. 119.07(1) and
 593 s. 24(a), Art. I of the State Constitution:

594 a. Underwriting files, except that a policyholder or an
 595 applicant shall have access to his or her own underwriting
 596 files. Confidential and exempt underwriting file records may
 597 also be released to other governmental agencies upon written
 598 request and demonstration of need; such records held by the
 599 receiving agency remain confidential and exempt as provided
 600 herein.

601 b. Claims files, until termination of all litigation and
 602 settlement of all claims arising out of the same incident,
 603 although portions of the claims files may remain exempt, as
 604 otherwise provided by law. Confidential and exempt claims file
 605 records may be released to other governmental agencies upon
 606 written request and demonstration of need; such records held by
 607 the receiving agency remain confidential and exempt as provided
 608 herein.

609 c. Records obtained or generated by an internal auditor
 610 pursuant to a routine audit, until the audit is completed, or if
 611 the audit is conducted as part of an investigation, until the
 612 investigation is closed or ceases to be active. An investigation

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613 is considered "active" while the investigation is being
 614 conducted with a reasonable, good faith belief that it could
 615 lead to the filing of administrative, civil, or criminal
 616 proceedings.

617 d. Matters reasonably encompassed in privileged attorney-
 618 client communications.

619 e. Proprietary information licensed to the corporation
 620 under contract and the contract provides for the confidentiality
 621 of such proprietary information.

622 f. All information relating to the medical condition or
 623 medical status of a corporation employee which is not relevant
 624 to the employee's capacity to perform his or her duties, except
 625 as otherwise provided in this paragraph. Information that is
 626 exempt shall include, but is not limited to, information
 627 relating to workers' compensation, insurance benefits, and
 628 retirement or disability benefits.

629 g. Upon an employee's entrance into the employee assistance
 630 program, a program to assist any employee who has a behavioral
 631 or medical disorder, substance abuse problem, or emotional
 632 difficulty that which affects the employee's job performance,
 633 all records relative to that participation shall be confidential
 634 and exempt from the provisions of s. 119.07(1) and s. 24(a),
 635 Art. I of the State Constitution, except as otherwise provided
 636 in s. 112.0455(11).

637 h. Information relating to negotiations for financing,
 638 reinsurance, depopulation, or contractual services, until the
 639 conclusion of the negotiations.

640 i. Minutes of closed meetings regarding underwriting files,
 641 and minutes of closed meetings regarding an open claims file

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642 until termination of all litigation and settlement of all claims
643 with regard to that claim, except that information otherwise
644 confidential or exempt by law shall be redacted.

645 2. If an authorized insurer is considering underwriting a
646 risk insured by the corporation, relevant underwriting files and
647 confidential claims files may be released to the insurer
648 provided the insurer agrees in writing, notarized and under
649 oath, to maintain the confidentiality of such files. If a file
650 is transferred to an insurer, that file is no longer a public
651 record because it is not held by an agency subject to the
652 provisions of the public records law. Underwriting files and
653 confidential claims files may also be released to staff and the
654 board of governors of the market assistance plan established
655 pursuant to s. 627.3515, who must retain the confidentiality of
656 such files, except such files may be released to authorized
657 insurers that are considering assuming the risks to which the
658 files apply, provided the insurer agrees in writing, notarized
659 and under oath, to maintain the confidentiality of such files.
660 Finally, the corporation or the board or staff of the market
661 assistance plan may make the following information obtained from
662 underwriting files and confidential claims files available to
663 authorized insurers ~~licensed general lines insurance agents~~:
664 name, address, and telephone number of the residential property
665 owner or insured; location of the risk; rating information; loss
666 history; and policy type. The receiving authorized insurer
667 ~~licensed general lines insurance agent~~ must retain the
668 confidentiality of the information received and may use the
669 information only for the purposes of developing a take-out plan
670 to be submitted to the office for approval or otherwise

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671 analyzing the underwriting of a risk or risks insured by the
672 corporation on behalf of the private insurance market. The
673 authorized insurer receiving information under this subparagraph
674 may not use the information for the direct solicitation of
675 policyholders. An entity that has obtained a permit to become an
676 authorized insurer, a reinsurer, a reinsurance broker, or a
677 modeling company may receive the information available under
678 this subparagraph for the sole purpose of analyzing risks for
679 underwriting in the private insurance market and must retain the
680 confidentiality of the information received. Such entities may
681 not use the information for the direct solicitation of
682 policyholders.

683 3. A policyholder who has filed suit against the
684 corporation has the right to discover the contents of his or her
685 own claims file to the same extent that discovery of such
686 contents would be available from a private insurer in litigation
687 as provided by the Florida Rules of Civil Procedure, the Florida
688 Evidence Code, and other applicable law. Pursuant to subpoena, a
689 third party has the right to discover the contents of an
690 insured's or applicant's underwriting or claims file to the same
691 extent that discovery of such contents would be available from a
692 private insurer by subpoena as provided by the Florida Rules of
693 Civil Procedure, the Florida Evidence Code, and other applicable
694 law, and subject to any confidentiality protections requested by
695 the corporation and agreed to by the seeking party or ordered by
696 the court. The corporation may release confidential underwriting
697 and claims file contents and information as it deems necessary
698 and appropriate to underwrite or service insurance policies and
699 claims, subject to any confidentiality protections deemed

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700 necessary and appropriate by the corporation.

701 4. Portions of meetings of the corporation are exempt from
702 the provisions of s. 286.011 and s. 24(b), Art. I of the State
703 Constitution wherein confidential underwriting files or
704 confidential open claims files are discussed. All portions of
705 corporation meetings which are closed to the public shall be
706 recorded by a court reporter. The court reporter shall record
707 the times of commencement and termination of the meeting, all
708 discussion and proceedings, the names of all persons present at
709 any time, and the names of all persons speaking. No portion of
710 any closed meeting shall be off the record. Subject to the
711 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
712 notes of any closed meeting shall be retained by the corporation
713 for a minimum of 5 years. A copy of the transcript, less any
714 exempt matters, of any closed meeting wherein claims are
715 discussed shall become public as to individual claims after
716 settlement of the claim.

717 (ii) The corporation shall revise the programs adopted
718 pursuant to sub-subparagraph (q)3.a. to maximize policyholder
719 options and encourage increased participation by insurers and
720 agents. No later than January 1, 2017, such revisions must
721 comply with this paragraph.

722 1. The corporation must schedule no more than 3 cycles per
723 year during which insurers may identify policies they wish to
724 take out and may submit requests to take out such policies to
725 the corporation in a form and manner prescribed by rule. An
726 insurer's take-out request must include a description of the
727 coverages offered and an estimated premium. In submitting any
728 take-out request, an insurer must agree that:

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729 a. The initial premium of the insurer will not exceed its
730 estimated premium by more than 10 percent, excluding coverage
731 changes and assessments.

732 b. The insurer will provide coverage comparable to that
733 offered by the corporation and may use the same policy form used
734 by the corporation for any take-out policies for 3 full renewal
735 cycles.

736 2. For each policy of the corporation identified under
737 subparagraph 1., the corporation shall maintain and make
738 available to the agent of record a consolidated list of all
739 insurers requesting the policy. The list must contain the
740 information described in subparagraph 1.

741 3. The corporation shall provide written notice to its
742 policyholders and the agents of record informing them of their
743 option to accept one of the take-out offers presented or to
744 remain with the corporation. The notice must be in a format
745 prescribed by rule and include the amount of the estimated
746 premium for the coverage of each offering insurer, the amount of
747 the premium for the coverage provided by the corporation, and a
748 description of the coverage offered by each insurer and the
749 coverage provided by the corporation, which includes an
750 explanation of any differences among the coverage offered by
751 each insurer and the coverage provided by the corporation.

752 4. A policyholder who accepted a take-out offer by an
753 insurer in the previous 36 months is considered a renewal
754 policyholder under s. 627.3518 if the corporation determines
755 that the insurer continues to insure the policyholder and failed
756 to meet the requirements of sub-subparagraph 1.a., that the
757 insurer nonrenewed the policyholder for reasons other than the

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758 nonpayment of premium, or that the insurer increased the rate on
759 the policy in excess of the increase allowed for the corporation
760 under subparagraph (n)6.

761 Section 3. This act shall take effect July 1, 2016.

KINSEY.JOAN

From: GREEN.SHERI
Sent: Wednesday, January 27, 2016 12:40 PM
To: KINSEY.JOAN
Subject: FW: Agenda Request for SB 1630 & 1104

From: GREEN.SHERI
Sent: Friday, January 15, 2016 12:33 PM
To: MCREA.WILLIAM <MCREA.WILLIAM@flsenate.gov>
Subject: RE: Agenda Request for SB 1630 & 1104

Thank you.

From: MCREA.WILLIAM
Sent: Friday, January 15, 2016 12:27 PM
To: BENACQUISTO.LIZBETH <BENACQUISTO.LIZBETH@flsenate.gov>; KNUDSON.JAMES <KNUDSON.JAMES@flsenate.gov>
Cc: GREEN.SHERI <GREEN.SHERI@flsenate.gov>
Subject: Agenda Request for SB 1630 & 1104

Chair Benacquisto,

Please see the attached agenda request from Senator Flores for SB 1630 relating to Depopulation of Citizens Property Insurance & SB 1104 relating to Service of Process on Financial Institutions.

Thank you for your consideration.

Regards,

Will

William McRea

Legislative Assistant
Office of State Senator Anitere Flores District 37
10691 N. Kendall Drive, Suite 309
Miami, FL 33176
(305)270-6550
(305)270-6552 FAX
McRea.William@flsenate.gov

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1630

Bill Number (if applicable)

Meeting Date

Topic _____

Amendment Barcode (if applicable)

Name Robert Ray

Job Title _____

Address _____

Phone _____

Street

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Monroe County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1
Meeting Date

11030
Bill Number (if applicable)

Topic Operations of Citizens Property Ins. Corp.

Amendment Barcode (if applicable)

Name Keri Silver

Job Title _____

Address P.O. Box 1565
Street

Phone 850-524-2394

Tallahassee FL 32302
City State Zip

Email Keria@rayborneconsultant.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Latin American Association of Insurance Agencies

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 1, 2016
Meeting Date

SB 1630
Bill Number (if applicable)

Topic OPERATION OF CITIZENS

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title _____

Address 311 EAST PARK AVE,
Street

Phone _____

TALLAHASSEE FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing PROFESSIONAL INSURANCE AGENTS OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/16
Meeting Date

1630
Bill Number (if applicable)

Topic CITIZENS

Amendment Barcode (if applicable)

Name KYLE ULRICH

Job Title SVP

Address 3159 SHAMROCK S.

Phone 566-4204

Street

TALLAHASSEE FL 32309

Email KULRICH@FAIA.COM

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL. ASSOC. OF INSURANCE AGENTS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: EL 110 Case No.:
Caption: Senate Banking and Insurance Committee

Type:
Judge:

Started: 2/1/2016 1:34:18 PM
Ends: 2/1/2016 3:27:36 PM Length: 01:53:19

1:34:18 PM Senator Benacquisto calls meeting to order
1:34:36 PM Roll call -- quorum present
1:34:56 PM TAB 5 -SB 1142 - Treatments for Stable Patients
1:35:34 PM Senator Hays recognized to present the bill
1:36:25 PM Amd. 681578 (delete all amendment)
1:37:02 PM Explanation of amendment by Senator Hays
1:38:05 PM Doug Bell waives in support of amendment
1:38:44 PM Amendment adopted - fwo
1:41:57 PM Dr. Robert W. Levin - FL Society of Rheumatology
1:42:58 PM Dr. John Langdon, FL Chapter, American College of Physicians
1:44:29 PM Joy Ryan, AHIP
1:47:04 PM Abigail Stoddard - Pharmacist
1:48:25 PM Senator Hays recognized to close on bill
1:49:26 PM Roll call on CS/SB 1142 - Favorable
1:49:53 PM TAB 2 - SB 596 Assignment or Transfer of Property Insurance Rights
1:50:48 PM Senator Hukill recognized to present the bill
1:52:29 PM Amd. 751400 withdrawn
1:53:28 PM Amd. 415826 taken up
1:53:43 PM Sen. Clemens explains amendment
1:54:50 PM amd. 415826 adopted w/o objection - favorable
1:55:55 PM Jason Lamoureux, Attorney, representing self
1:56:55 PM Richie Kidwell, Owner, Air Quality Assessors
2:02:38 PM James Loy, Alpha Claims Adjusting
2:05:10 PM Kindell Parker, United Water Restoration
2:07:04 PM Brian Christenson, Owner Restoration
2:10:54 PM Foyt Ralston, FL Association of Restoration Specialist
2:17:33 PM Stephanie Ellen Vaughn, Domestic Engineer/PHD candidate
2:22:35 PM Reggie Garcia, The Florida Justice Association
2:29:09 PM Lisa Miller, Consumers Lillian and Jim Hetrich, Clermont, FL
2:30:09 PM Jenifer West, Consumer Federation of the Southeast
2:31:40 PM Cam Fentress, FL Roofing and Sheet Metal Contractors Assn.
2:33:13 PM Caitlin Murray, Office of Insurance Regulation
2:39:16 PM Sandra Starnes- Office of Insurance Regulation
2:41:48 PM Kim Driggers, Attorney
2:42:51 PM Gerald Wester, American Ins. Association
2:47:31 PM Senator Negron with question of staff on post loss benefits
2:49:01 PM Senator Margolis recognized for question
2:50:39 PM Senator Smith with question
3:05:09 PM Senator Hukill recognized to close on bill.
3:05:57 PM Roll call on CS/SB 596 - Favorable
3:06:39 PM TAB 8 -Sen. Flores - Operations of the Citizens Property Insurance Corporation
3:07:39 PM Senator Flores recognized to present bill
3:08:01 PM AMD 586788 - delete all amendment
3:08:23 PM Sen. Flores explains Amendment
3:09:25 PM Amd. to Amd. 394444 - Sen. Negron
3:09:43 PM Sen. Flores explains the amd. to amd. -- fwo --adopted
3:10:32 PM Back on Delete All Amend. as amended - fwo - adopted
3:14:44 PM Senator Flores recognized to close on bill.
3:15:28 PM Roll call on CS/SB 1630 - Favorable
3:16:03 PM TAB 4 - SB 986 - Workers' Compensation
3:16:33 PM Senator Simpson's Aide presented the bill
3:16:52 PM Amd. 756866 - fwo - adopted

3:17:04 PM amd. 563546 - fwo - adopted
3:17:58 PM Roll call on CS/SB 986 - Favorable
3:18:32 PM TAB 6 - Simmons - Dept. of Financial Services Rules
3:18:50 PM Senator Simmons recognized to present the bill.
3:20:09 PM Sen. Simmons waives close
3:20:16 PM Roll call on SB 1402 -- Favorable
3:20:43 PM TAB 1- SB 550 - Sen. Dean (Kyle Langan, Aide) presents bill
3:21:24 PM Roll call on SB 550 - Favorable
3:21:50 PM TAB 7 SB 1490 - Gacia (Miguel Abad presents bill)
3:22:11 PM Amd. 960424 - delete all amendment
3:22:27 PM Explanation of Amd. by Miguel Abad
3:23:10 PM Amd. 960424 - fwo - adopted
3:23:29 PM Roll call CS/SB 1490 - Favorable
3:23:53 PM TAB 3 SB 596 by Garcia - Provision of Pharmaceutical Services
3:24:32 PM Sen. Garcia's aide (AJ D'Amico) recognized to present the bill
3:26:59 PM Roll call on SB 780 -- Favorable
3:27:22 PM Meeting adjourned