

## Committee on Banking and Insurance

### **CS/HB 7 — Direct Health Care Agreements**

by Health Market Reform Subcommittee and Rep. Duggan and others (CS/SB 1520 by Banking and Insurance Committee and Senator Bean)

The bill expands the scope of the current exemption from the Florida Insurance Code for direct primary care agreements to apply to all direct health care agreements. Direct primary care agreements are a type of direct contracting that eliminates third party payers from the provider-patient relationship. Under current law, a direct primary care agreement is not insurance and is not subject to regulation under the Florida Insurance Code if certain conditions are met. The bill expands the current law relating to direct primary care agreements to apply to other health care providers, including dentists, thus removing regulatory uncertainty whether such providers could use a direct contracting model.

If approved by the Governor, these provisions take effect July 1, 2019.

*Vote: Senate 40-0; House 90-24*

## Committee on Banking and Insurance

### **CS/CS/CS/HB 301 — Insurance**

by Commerce Committee; Civil Justice Subcommittee; Insurance and Banking Subcommittee; and Rep. Santiago (CS/CS/CS/CS/SB 714 by Appropriations Committee; Banking and Insurance Committee; Judiciary Committee; Banking and Insurance Committee; and Senators Brandes and Bracy)

The bill:

- Increases from 5 percent to 10 percent the amount of loss adjustment expenses covered by the Florida Hurricane Catastrophe Fund for contracts effective on or after June 1, 2019.
- Beginning January 1, 2020, allows the transfer of a salvage title to a motor vehicle or mobile home by electronic means, the United States Postal Service, or another commercially available delivery service.
- Allows for an electronic signature consistent with Ch. 668, F.S., for any signature required to transfer a salvage title.
- Requires odometer disclosures submitted through an insurance company must be in accordance with s. 668.003(4), F.S., and use a system providing an Identity Assurance Level, Authenticator Assurance Level, and Federation Assurance Level, as described in the National Institute of Standards and Technology Special Publication 800-63-3, as of December 1, 2017, that are equivalent to or greater than:
  - Level 2, for each level, for a certificate of destruction.
  - Level 3, for each level, for a salvage certificate of title.
- Removes the requirement for workers compensation applications to be notarized by the applicant and agent.
- Reduces the penalty from second degree to third degree felony for intentionally submitting false information on a workers compensation application.
- Provides that beginning January 1, 2020, a liability insurer who defends an insured will have the right to compel the sharing of defense costs by another insurer who also owes a duty to defend the insured on the same claim.
- Provides that notice of a bad faith claim may not be filed within 60 days after appraisal has been invoked by a party in a residential property insurance claim.
- Deletes a provision allowing the Department of Financial Services to return a pre-suit notice for a bad faith action if the notice lacks specific information.
- Allows a foreign or alien insurer to operate in Florida without first having 3 years of experience if the Office of Insurance Regulation has determined the insurer possesses sufficient capital and surplus to support its plan of operation.
- Classifies health maintenance organizations and prepaid limited health service organizations, which write in Florida and other states, as property and casualty insurers for the purpose of calculating the formula for risk based capital.
- Provides that a residential structure with a dwelling replacement cost of \$700,000 or more may be exported to a surplus lines insurer if an agent seeks coverage from one authorized insurer and is rejected.

- Removes the \$35 limit on the per-policy fee a surplus line agent may charge for each policy certified for export to a surplus lines insurer and allows retail agents to charge a similar uncapped fee for placing a surplus lines policy. Both fees must be reasonable and must be itemized separately to the customer before purchase.
- Exempts insurers from certain restrictions in unfair methods of competition when providing services or other merchandise, goods, wares, or items of value that relate to loss control or loss mitigation with respect to the risks covered under the policy to the insured for free or at a discounted price.
- Allows an insurer to offer a multiline discount to the insured when policies from insurers operating under a joint marketing agreement are purchased, when a policy is removed from Citizens Property Insurance Corporation through the policyholder eligibility clearinghouse program, or when the same agent is servicing the policies from different insurers.
- Allows liability insurers to provide required written notice of defense and notice of refusal to defend to the insured via United States postal proof of mailing, registered or certified mail, or other mailing using the Intelligent Mail barcode or other similar tracking method used or approved by the United States Postal Service.
- Requires a life insurer to provide a notice of lapse to the agent servicing a life insurance policy 21 days prior to the effective date of the lapse unless the insurer provides an online method for the agent to identify lapsing policies, the insurer has no record of the agent servicing the policy, or the agent is employed by the insurer or its affiliate.
- Allows the notice of mediation to be given at the time a property insurance policy is issued and renewed or after a first party property claim has been filed.
- Reduces the amount of premium that must be paid upfront on a private passenger motor vehicle policy from 2 months to 1 month.

If approved by the Governor, these provisions take effect July 1, 2019, except as otherwise provided.

*Vote: Senate 37-1; House 114-0*

## Committee on Banking and Insurance

### **CS/CS/SB 322 — Health Plans**

by Health Policy Committee; Banking and Insurance Committee; and Senator Simpson

The bill allows insurers and health maintenance organizations (HMOs) greater flexibility in their plan design and product offerings providing options of affordable health coverage for employers, employees, and individuals. The bill also requires insurers and HMOs offering comprehensive major medical coverage to offer at least one policy or contract that does not exclude preexisting medical conditions if certain conditions are met.

#### *Alternative Coverage Arrangements*

The bill revises regulatory provisions relating to alternative coverage arrangements such as short-term limited duration insurance policies and association health plans. The bill codifies 2018 federal regulations to provide consumers and employers with more affordable coverage options and choices for health insurance coverage.

An association health plan (AHP), which is a type of multiple employer welfare association, is a legal arrangement that allows business associations or unrelated employer groups to jointly offer health insurance and other fringe benefits to their members or employees. Changes in federal rules allow small employers, through associations, to gain regulatory and economic advantages that were previously only available to large employers. As a result of the federal regulatory changes, small employers, including working owners without employees, can form an association health plan that would be treated as a large group rather than a small group for insurance purposes, which would lower insurance costs and regulatory burdens. In addition, the federal rule allows an AHP to form, based on a geographic test, such as a common state, city, county, or a metropolitan area across state lines. Working owners without employees, including sole proprietors, can join.

The bill also provides that short-term limited duration insurance is an individual or group health insurance coverage provided pursuant to a contract with an issuer that has an expiration date specified in the contract that is less than 12 months after the original effective date of the contract and has a duration of no longer than 36 months in total. Short-term limited duration insurance was designed primarily to fill temporary gaps in coverage that may occur when an individual is transitioning from one plan or coverage to another plan or coverage. Currently, a short-term limited duration insurance policy must expire within 12 months of the date of the contract, taking into account any extensions. The bill requires disclosure in the short-term limited duration insurance contract regarding the scope of the coverage.

#### *Essential Health Benefits*

The bill requires the Office of Insurance Regulation (OIR) to conduct a study to evaluate Florida's essential health benefits (EHB) benchmark plan and submit a report by October 30, 2019 to the Governor, the President of the Senate, and the Speaker of the House. The study must

include recommendations for changing the current EHB-benchmark plan to provide comprehensive care at a lower cost.

The Patient Protection and Affordable Care Act (PPACA) requires comprehensive major medical policies or contracts to include coverage for the 10 essential health benefits delineated in the act. Starting in plan year 2020, the federal government is providing states with greater flexibility in the selection of its EHB-benchmark plan. These options include:

- Selecting an EHB-benchmark plan that another state used for the 2017 plan year;
- Replacing one or more categories of EHBs under its EHB-benchmark plan used for the 2017 plan year with the same category or categories of EHB from the EHB-benchmark plan that another state used for the 2017 plan year; or
- Selecting a set of benefits that would become the state's EHB-benchmark plan.

The bill also provides insurers and HMOs issuing or delivering individual or group policies or contracts in Florida that provide EHBs additional flexibility in developing affordable coverage options, which are substantially equivalent to the state EHB-benchmark plan, that could be submitted to the OIR for review and approval.

#### ***Coverage for Preexisting Conditions***

The bill requires each insurer or HMO issuing comprehensive major medical policies or contracts in Florida to offer at least one comprehensive major medical policy or contract that does not exclude, limit, deny, or delay coverage due to one or more preexisting medical conditions. The operative date for such mandated offer is the enactment of a federal law that expressly repeals PPACA or the invalidation of the PPACA by the United States Supreme Court. If approved by the Governor, these provisions take effect upon becoming law.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 23-13; House 70-42*

## Committee on Banking and Insurance

### **CS/CS/CS/HB 431 — Liens Against Motor Vehicles and Vessels**

by Judiciary Committee; Transportation and Infrastructure Subcommittee; Civil Justice Subcommittee; and Rep. Fischer (CS/CS/SB 772 by Judiciary Committee; Banking and Insurance Committee; and Senators Stargel and Baxley)

The bill changes the notification requirements and process for performance liens and sale by automotive repair shops and towing-storage operators. The bill expands those who must receive such notices beyond the customer and requires additional information be provided.

The bill requires the notice of lien for automotive repairs include the name and address of the lienor and an itemized statement of the amount claimed to be owed to the lienor. The bill prohibits selling a vehicle to satisfy a lien for repair work earlier than 60 days after the completion of the repair work. The notice of sale notice must contain information identifying the registration number, name, and physical address of the motor vehicle repair shop claiming the lien and must be sent by certified mail with the last eight digits of the vehicle identification number of the motor vehicle being sold clearly printed in the delivery address box. The bill requires the lienor to make the vehicle to be sold available for inspection at any time before the proposed or scheduled date of the sale. The bill allows any person of record claiming a lien against a motor vehicle to obtain the vehicle's release from a lien claimed by a motor vehicle repair shop for repair work performed under ch. 713, F.S.; currently the statute only refers to the customer of the repair shop obtaining release. The release is obtained by filing cash or a surety bond with the clerk of court where the disputed transaction occurred.

The bill requires the notice of lien for recovering, towing, or storing a vehicle or vessel be sent within 7 business days after the date of storage of the vehicle or vessel. The notice of lien must contain the name, physical address, telephone number and entity name of the lienor, the name of the person that authorized the lienor to take possession of the vehicle or vessel, and the address where the vehicle or vessel is located. If the lienor fails to provide such notice, the lienor may not charge for more than 7 days of storage. The notice of lien must be sent at least 30 days before a sale to satisfy the lien. Notice of sale to satisfy a lien for recovering, towing, or storing a vehicle must be sent by certified mail with the last eight digits of the vehicle identification number of the motor vehicle or hull identification number of the vessel on the outside of the envelope. The notice of sale must also contain such information regarding the lienor and the vehicle identification number of the motor vehicle or hull identification number of the vessel.

The bill requires a third-party service, approved by the Department of Highway Safety and Motor Vehicles, must be used, when available, in processing and mailing all such required notices.

The bill limits the fees and costs a motor vehicle repair shop or towing-storing operator may charge to release a vehicle from a claim of lien, generally to no more than \$250.

The bill requires the lienor provide specific documentation as part of an application to the Department of Highway Safety and Motor Vehicles for transfer of title.

If approved by the Governor, these provisions take effect January 1, 2020.  
*Vote: Senate 38-0; House 113-0*

## Committee on Banking and Insurance

### **CS/HB 617 — Homeowners' Insurance Policy Disclosures**

by Insurance and Banking Subcommittee and Reps. Newton, Joseph, and others (CS/SB 380 by Banking and Insurance Committee and Senator Brandes)

The bill requires an insurer issuing a homeowners insurance policy that does not provide for the coverage of flood must provide a prescribed statement informing the policyholder that their policy does not insure against losses caused by flood. Such statement must be provided to the policyholder at issuance and renewal.

If approved by the Governor, these provisions take effect July 1, 2019.

*Vote: Senate 33-0; House 113-0*

## Committee on Banking and Insurance

### **CS/CS/HB 673 — Insurer Guaranty Associations**

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Fischer (CS/CS/SB 626 by Appropriations Committee; Banking and Insurance Committee; and Senators Brandes and Broxson)

The bill revises provisions relating to the Florida Life and Health Insurance Guaranty Association (association) and the Florida Health Maintenance Organization Consumer Assistance Plan (HMOCAP). In response to recent long-term care insurer insolvencies, the bill incorporates some recent changes made to a National Association of Insurance Commissioners' (NAIC) model act and additional recommendations of stakeholders. The bill:

- Expands the assessment base of the association to fund long-term care insurer impairments and insolvencies by including health maintenance organizations (HMOs), life insurers, and annuity insurers. Any assessments related to long-term care insurers would be allocated 50 percent to health member insurers and HMOs, and the remaining 50 percent to life and annuity member insurers. Total assessments on member insurers and HMOs are capped at 0.5 percent of premiums per year. Currently, only health insurers are assessed.
- Exempts any nonprofit HMO from the long-term care insurance assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made.
- Increases the number of directors that may be on the association's board of directors and requires that one director be a director of the HMOCAP.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 114-0*

## Committee on Banking and Insurance

### **CS/CS/CS/SB 862 — Lessor Liability Under Special Mobile Equipment Leases**

by Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senator Stargel

The bill provides that the lessor of special mobile equipment that causes injury, death, or damage while leased under a lease agreement is not liable for the acts of the lessee or lessee's agent or employee if the lease agreement requires documented proof of insurance coverage with limits of at least \$250,000/\$500,000 for bodily injury liability and \$100,000 for property damage liability, or at least \$750,000 for combined property damage liability and bodily injury liability. The bill provides that the failure of the lessee to maintain insurance coverage required by the lease agreement does not impose liability on the lessor.

Special mobile equipment are vehicles not designed or used primarily to transport persons or property and that are only incidentally operated or moved over a highway. Examples include ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, draglines, self-propelled cranes and earthmoving equipment.

The bill responds to the Florida Supreme Court's decision in *Newton v. Caterpillar Financial Services Corporation*, 253 So.3d 1054 (Fla. 2018), which found that a loader is a dangerous instrumentality and thus subject to Florida's dangerous instrumentality doctrine. The dangerous instrumentality doctrine imposes strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another. Courts apply the doctrine not only to motor vehicles primarily designed to be used on the roads and highways of the state, but also to certain dangerous vehicles that are frequently operated near the public, such as farm tractors and tow motors.

If approved by the Governor, these provisions take effect July 1, 2019.

*Vote: Senate 29-8; House 83-32*

## Committee on Banking and Insurance

### **CS/HB 925 — Warranty Associations**

by Insurance and Banking Subcommittee and Rep. Webb and others (CS/SB 1690 by Banking and Insurance Committee and Senator Broxson)

The bill reduces the amount of the unearned premium reserve that a service warranty association and a home warranty association must maintain under Florida law. Under the bill, such warranty associations must maintain an unearned premium reserve equal to a minimum of 25 percent of gross written premiums received from warranty contracts written in this state. Under current law, the unearned premium reserve must equal at least 25 percent of gross written premiums received from all its warranty contracts in force. The bill requires the unearned premium reserve account be a separate auditable account. The bill provides that a home warranty association or a service warranty association that operates in Florida and other states must also comply with the financial requirement laws of those states.

The bill prohibits a home warranty contract from excluding coverage due to the presence of rust or corrosion if such rust was not a contributing cause of the mechanical breakdown or failure of the covered appliance, unit, or system.

The bill also requires home warranty companies that cover HVAC parts replacements, but that do not cover manufacturer-recommended compatibility or efficiency requirements to:

- State in conspicuous boldface type that the contract does not provide replacement coverage for components necessary to maintain the compatibility and efficiency requirements recommended by the manufacturer unless the consumer purchases additional coverage. The contract must also state the website or phone number where a consumer may purchase additional coverage; and
- Provide the consumer with the option, at an additional cost, to purchase replacement coverage for components necessary to maintain the compatibility and efficiency requirements.

If approved by the Governor, these provisions take effect July 1, 2019, except where otherwise provided.

*Vote: Senate 40-0; House 109-0*

## Committee on Banking and Insurance

### **HB 975 — Aircraft Liens**

by Rep. Altman (SB 1208 by Senator Baxley)

The bill clarifies that liens claimed under ss. 329.41 and 713.58, F.S., for labor, services, fuel, or material furnished to an aircraft are not possessory liens. Thus, a person claiming such a lien does not need to keep possession of the aircraft to enforce the lien.

If approved by the Governor, these provisions take effect July 1, 2019.

*Vote: Senate 39-0; House 114-0*

## Committee on Banking and Insurance

### **HB 983 — Ratification of Rules of the Department of Financial Services**

by Reps. Casello and Willhite (SB 1210 by Senator Book)

The bill ratifies Rule 64L-3.009, F.A.C., adopted by the Department of Financial Services (DFS).

Chapter 2018-124, L.O.F., allows a first responder to recover wage replacement benefits under the Workers' Compensation Law for post-traumatic stress disorder (PTSD) without an accompanying physical injury if the PTSD resulted from the first responder acting within the course of his or her employment and the first responder is examined and subsequently diagnosed with the disorder by a licensed psychiatrist. The PTSD must be due to specified events, including events that involve witnessing "grievous bodily harm of a nature that shocks the conscience." Chapter 2018-124, L.O.F., did not define "grievous bodily harm of a nature that shocks the conscience" and directed the DFS to adopt a rule defining the phrase.

The DFS filed the rule for adoption on December 5, 2018. The Statement of Estimated Regulatory Costs developed by the DFS determined that the proposed rule will likely increase regulatory costs in excess of \$1 million in the aggregate within 5 years after implementation of the rule. Section 120.541, F.S., requires that a rule that will likely increase regulatory costs in excess of \$1 million in the aggregate within 5 years be ratified by the Legislature before it may go into effect. The bill ratifies the rule.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 117-0*

## Committee on Banking and Insurance

### **CS/CS/SB 1024 — Blockchain Technology**

by Rules Committee; Innovation, Industry, and Technology Committee; and Senator Gruters

The bill establishes the Florida Blockchain Task Force comprised of government and private sector representatives to study the ways in which the state, county and municipal governments can benefit from transitioning to a blockchain-based system for recordkeeping, security, and service delivery. The task force is established within the Department of Financial Services. It will explore and develop a master plan for fostering the expansion of the blockchain industry in this state, recommend policies and state investments to help make Florida a leader in blockchain technology.

The task force will develop and submit recommendations to the Governor and Legislature concerning the potential for implementation of blockchain-based systems that promote government efficiencies, better services for citizens, economic development, and safer cyber-secure interaction between government and the public. The task force must be appointed and hold its first meeting no later than 90 days after the effective date of the act. The task force must, within 180 days of its first meeting, submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives, and present its findings to the appropriate legislative committees. The report must include:

- A general description of the costs and benefits of state and local government agencies using blockchain technology;
- Recommendations concerning the feasibility of implementing blockchain technology in the state and the best approach to finance implementation costs;
- Recommendations for specific implementations to be developed by relevant state agencies;
- Any draft legislation the task force deems appropriate to implement blockchain technologies;
- Identification of one pilot project that may be implemented in Florida; and
- Any other information the task force deems relevant.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 113-0*

## Committee on Banking and Insurance

### **CS/CS/CS/HB 1033 — Continuing Care Contracts**

by Commerce Committee; Health and Human Services Committee; Insurance and Banking Subcommittee; and Reps. Yarborough, Stevenson, and others (CS/CS/SB 1070 by Appropriations Committee; Banking and Insurance Committee; and Senator Lee)

The bill revises provisions within the Insurance Code governing continuing care retirement communities (CCRCs) or providers, which are regulated by the Office of Insurance Regulation (OIR). The CCRCs provide lifelong housing, household assistance, and nursing care in exchange for a significant entrance fee and monthly fees.

The bill provides the following changes relating to CCRCs:

#### ***Protections and Transparency for Residents***

- Requires providers to make additional disclosures and reports available to prospective residents and current residents.
- Revises the current procedure for the resolution of residents' complaints to provide greater transparency regarding the resolution process.
- Revises the membership of the Continuing Care Advisory Council to increase the number of resident members from three to four.

#### ***Regulatory Oversight***

- Creates an early intervention system, based on the CCRC's performance, designed to identify, mitigate, or resolve financial issues so that a provider may avoid bankruptcy, as well as protect the interests of the residents. The bill revises reporting requirements of CCRCs to provide more relevant and timely information about the financial performance of CCRCs.
- Authorizes the OIR, under certain conditions, to issue an immediate suspension order on a CCRC as well as a cease and desist order on a person that violates specified laws.
- Provides additional authority for the OIR to disapprove and remove unqualified management.
- Revises and streamlines provisions of law relating to applications for licensure and acquisition of a CCRC.
- Creates an annual industry report that provides greater transparency regarding the CCRCs' performance and the OIR's activities relating to the examination and regulation of CCRCs.

If approved by the Governor, these provisions take effect January 1, 2020, except as otherwise expressly provided in this act.

*Vote: Senate 40-0; House 113-0*

## Committee on Banking and Insurance

### **CS/HB 1113 — Health Insurance**

by Health Market Reform Subcommittee and Rep. Renner and others (CS/CS/SB 524 by Appropriations Committee; Banking and Insurance Committee; and Senators Diaz, Farmer, and Bean)

The bill provides changes relating to health insurance coverage in the private sector, as well as the State Group Insurance program administered by the Department of Management Services (DMS) to provide access to high quality care and services in a more cost effective manner.

#### ***Shared Savings Incentive Program***

The bill authorizes the creation of shared savings incentive programs, which are voluntary programs for insurers, health maintenance organizations, insureds, and subscribers, that are designed to provide financial incentives for insureds and subscribers to obtain high quality and cost effective delivery of health care services. The shoppable health care services are lower-cost, high-quality non-emergency services for which a shared savings incentive is available for insureds under the program. The insurers or HMOs who choose to participate must develop a website outlining the range of shoppable health care services within and outside of Florida.

#### ***State Group Insurance Program***

The bill provides the following changes:

- Authorizes DMS to contract with entities that provide optional participation in a Medicare Advantage Prescription Drug Plan.
- Requires DMS to offer, as a voluntary supplemental benefit option, international prescription services that offer maintenance medications at a reduced cost.
- Requires the Division of State Group Insurance (DSGI) to implement formulary management for prescription drugs and supplies beginning with the 2020 plan year. However, the formulary may not restrict an enrollee's access to the most clinically appropriate, effective, and lowest net-cost drugs. An excluded drug must be available for inclusion if a prescribing provider indicates on the prescription that the drug is medically necessary. The bill also provides reporting requirements and repeals section 8 of chapter 99-255, L.O.F., relating to the management of prescription drugs.
- Requires the DSGI to provide annual coverage of \$20,000 per enrollee for medically necessary prescription and nonprescription enteral formula and amino-acid-based elemental formulas for home use, regardless of the method of delivery or intake, which have been ordered or prescribed by a physician.
- Requires DMS to establish by rule regions for purposes of procuring HMO health care services throughout the state, and submit the rule to the President of the Senate and the Speaker of the House of Representatives for ratification no later than 30 days before the 2020 Regular Session of the Legislature.
- Requires DMS to conduct a study of the procurement timelines and terms of contracts for state employee health benefits with HMOs, preferred provider organizations, and

prescription drug programs in order to develop an implementation plan for simultaneous procurement of such contracts offered beginning plan year 2023. Currently, DMS procures these contracts at different times, which prevents DMS from having a coordinated procurement strategy. The implementation of a coordinated procurement strategy will allow DMS to take advantage of changes in the market, impose uniform policies, and incorporate revisions of law into its procurement process. The bill requires DMS to submit a report with recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2019.

- The bill also requires DMS to enter into and maintain one or more contracts with benefits consulting companies, which will allow DMS and other state agencies to purchase consulting services without additional procurements.

If approved by the Governor, these provisions take effect July 1, 2019, except where otherwise provided.

*Vote: Senate 37-1; House 105-2*

## Committee on Banking and Insurance

### **CS/CS/CS/HB 1393 — Department of Financial Services**

by Commerce Committee; Government Operations and Technology Appropriations Subcommittee; Insurance and Banking Subcommittee; and Rep. Clemons and others (CS/CS/SB 1704 by Innovation, Industry, and Technology Committee; Banking and Insurance Committee; and Senator Wright)

The bill modifies several areas regulated by the Department of Financial Services (DFS). The bill allows the Division of Treasury to maintain warrants paid rather than turning them over to the Division of Auditing and Accounting and extends the retention period from 5 to 10 years.

The bill amends the Florida Funeral, Cemetery, and Consumer Services Act to:

- Allow a funeral director in charge to supervise up to two facilities, provided they are not more than 75 miles apart as measured in a straight line;
- Provide criteria for internship programs for a joint funeral director and embalmer license applicant;
- Require notice be sent to purchasers of preneed services when the services have not been rendered after a specified time frame and providing for distribution of funds held in trust;
- Allow out of state trust companies to receive funds from a preneed contract without obtaining a preneed license; and
- Authorize out of state trust companies to service a funeral or cemetery's care and maintenance trust fund.

The bill amends various licensing statutes administered by the Division of Agent and Agency Services. The bill:

- Allows applicants that have committed certain felonies to obtain a license on a probationary basis once the applicant has served at least half of the disqualifying period if the applicant, during that time, has not been found guilty of or has not pleaded guilty or nolo contendere to a crime;
- Creates a temporary license for personal lines agents similar to the temporary license existing in other lines;
- Provides that licenses for industrial fire or burglary agents will no longer be issued but allows current license holders to maintain their licenses;
- Eliminates examination requirements for industrial fire insurance and burglary insurance agents as well as crop hail and multiple-peril crop insurance agents;
- Provides the DFS the discretion to deny, suspend, revoke, or refuse to continue an insurance agency license on the grounds that another jurisdiction has taken an adverse action against a professional license held by a majority owner, partner, manager, director, officer or other controlling person of the agency; and
- Clarifies that the DFS may take action against the license of a title insurance agent or agency for willful violations of the Florida Insurance Code.

The bill amends the DFS property insurance mediation program to require the mediator to report a settlement through mediation to all parties after the conclusion of the mediation. The report must include the settlement amount.

The bill amends statutes relating to the State Fire Marshal to provide that identification of state owned and leased buildings will no longer be determined by the U.S. National Grid Coordinate System and to direct the Division of State Fire Marshal to develop employer best practices for firefighter cancer prevention. It also clarifies requirements for installation of fire extinguishers and preengineered systems. The bill provides for a uniform fire alarm permit for installing, replacing, or repairing a fire alarm system.

The bill amends the Disposition of Unclaimed Property Act to allow the DFS to automatically disburse certain unclaimed property accounts to verified claimants, and authorizes the department to create a method whereby claimant's representatives may electronically submit claim documents. The bill creates the Florida Blockchain Task Force with the Department of Financial Services to explore and develop a plan for fostering the expansion of the blockchain industry in Florida.

If approved by the Governor, these provisions take effect July 1, 2019.

*Vote: Senate 36-3; House 112-2*

## Committee on Banking and Insurance

### **HB 7033 — OGSR/Family Trust Companies**

by Oversight, Transparency and Public Management Subcommittee and Rep. Aloupis and others  
(SB 7056 by Banking and Insurance Committee)

The bill amends s. 662.148, F.S., to remove the repeal date for the current exemption from public records disclosure for certain information relating to family trust companies held by the Office of Financial Regulation. Family trust companies provide trust company services to high net worth families. They are not allowed to provide services to the general public. The Office of Financial Regulation's regulatory role is limited to ensuring that fiduciary services are not provided to the general public unless the family trust company desires more regulation.

Section 662.148, F.S., provides that personal identifying information contained in family trust company applications, registrations, certifications, and examinations is confidential and exempt from public disclosure. It also provides that family trust company shareholder or member names are confidential and exempt. The exemption is scheduled to repeal on October 2, 2019. The Legislature made such personal identifying information confidential and exempt because disclosure of financial information and names of family members, qualified participants, and shareholders of family trust companies could jeopardize the financial safety of the family members. Families with a high net worth are frequently the targets of criminals and placing family personal identifying information into the public domain would increase the risk that a family could become the target of criminal activity. This bill removes the scheduled repeal and makes the exemption permanent.

If approved by the Governor, these provisions take effect October 1, 2019.

*Vote: Senate 38-0; House 112-0*

## Committee on Banking and Insurance

### **HB 7049 — OGSR/Florida Consumer Collection Practices Act**

by Oversight, Transparency and Public Management Subcommittee and Rep. Andrade (SB 7050 by Banking and Insurance Committee)

The bill continues the public records exemption for information collected in connection with an investigation or examination conducted by the Office of Financial Regulation, pursuant to the Florida Consumer Collection Practices Act, by removing the October 2, 2019, repeal date. The continuation of the public records exemption will prevent the release of sensitive personal medical information and financial information of individuals.

If approved by the Governor, these provisions take effect October 1, 2019.

*Vote: Senate 37-0; House 115-0*

## Committee on Banking and Insurance

### **CS/CS/HB 7065 — Insurance Assignment Agreements**

by Judiciary Committee; Insurance and Banking Subcommittee; Civil Justice Subcommittee; and Rep. Rommel and others (CS/CS/CS/SB 122 by Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senators Broxson, Hooper, Simmons, and Stewart)

The bill addresses issues arising from the assignment of post-loss benefits from property insurance policies. The bill eliminates the “one way” attorney fee for assignees. The bill requires the assignee to give notice prior to filing a lawsuit and make a presuit demand. The insurer must respond with a presuit settlement offer. The court must compare the difference between the demand and the offer with the judgment obtained and award attorney fees based on a formula that provides that if the difference between the judgment obtained by the assignee and the presuit settlement offer is:

- Less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees.
- At least 25 percent but less than 50 percent of the disputed amount, no party is entitled to an award of attorney fees.
- At least 50 percent of the disputed amount, the assignee is entitled to an award of reasonable attorney fees.

The bill allows insurers to make available a property insurance policy that prohibits or restricts the assignment of post-loss benefits. If an insurer offers a policy that prohibits or restricts assignments of post-loss benefits, it must offer a policy with the same coverage that does not restrict or prohibit the right to assign benefits. When purchasing a policy that prohibits or restricts assignments of post-loss benefits, the named insured must reject the fully assignable policy. Policies prohibiting or restricting assignment of benefits must be at a lower cost.

The bill requires assignees to comply with some of the policyholder’s duties under the insurance policy. Insurance policies generally require insureds to cooperate with the claims investigation, sit for examinations under oath by the insurance company, and participate in appraisal. This bill applies those duties to the assignees as well. In addition, the bill:

- Gives the insured 14 days to rescind the assignment.
- Gives the insured 30 days to rescind the assignment if the assignee has not begun substantial work during that 30 days.
- Requires the assignee to provide a copy of the assignment agreement to the insurance company within 3 days.
- Limits assignments of benefits to \$3,000 or 1 percent of Coverage A during emergencies.
- Prohibits assignee from charging fees or penalties for mortgage processing, rescission or cancellation of the agreement, or administrative fees to insureds.
- Limits the ability of assignees to collect payment from insureds.
- Requires insurers to report information about assignments to the Office of Insurance Regulation.
- Provides that Citizens Property Insurance Corporation cannot implement rate changes unless the rate filing reflects projected savings from the bill.

If CS/CS/HB 337 becomes law, then subsection 627.7152(10), F.S., created by this bill, is effective upon becoming law. Subsection 627.7152(10), F.S., provides that attorney fees related to an assignment agreement for post-loss claims arising under a property insurance policy may only be recovered by an assignee pursuant to the formula created in subsection (10) or s. 57.105, F.S.

If approved by the Governor, these provisions take effect July 1, 2019.

*Vote: Senate 25-14; House 96-20*

## Committee on Banking and Insurance

### **HB 7091 — OGSR/Hurricane and Flood Loss Model Trade Secrets**

by Oversight, Transparency and Public Management Subcommittee and Rep. Fischer (SB 7054 by Banking and Insurance Committee)

The bill continues the current exemption from public records disclosure for trade secrets used in designing and constructing hurricane and flood loss models that are provided by a private company to the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, or the Office of the Consumer Advocate. The bill also continues the public meetings exemption for those portions of a meeting by the methodology commission or a rate filing by an insurer in which trade secrets pertaining to hurricane or flood models are discussed.

If approved by the Governor, these provisions take effect October 1, 2019.

*Vote: Senate 39-1; House 116-0*

## Committee on Banking and Insurance

### **HB 7097 — OGSR/Informal Enforcement Actions and Trade Secrets/OFR** by Oversight, Transparency and Public Management Subcommittee and Rep. Plasencia (SB 7052 by Banking and Insurance Committee)

The bill reenacts and saves from repeal the public records exemptions in s. 655.057, F.S., for informal enforcement actions performed by the Office of Financial Regulation and for trade secrets held by the Office of Financial Regulation in accordance with its statutory duties under the financial institutions codes. An informal enforcement action is a written agreement between the Office of Financial Regulation and a financial institution that the office imposes on the institution for the purpose of setting forth a program of corrective action, but is not subject to enforcement by imposition of an administrative fine. A trade secret is defined by s. 688.002(4), F.S., to mean information, that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Such information must also be the subject of efforts that are reasonable under the circumstances to maintain its secrecy to be a trade secret.

If approved by the Governor, these provisions take effect October 1, 2019.

*Vote: Senate 39-0; House 113-0*