Committee on Banking and Insurance

CS/HB 85 — Pub. Rec./New State Bank and New State Trust Companies

by Insurance & Banking Subcommittee and Rep. Barnaby and others (CS/SB 1014 by Governmental Oversight and Accountability Committee and Senator Perry)

The bill makes confidential and exempt from public records disclosure the following information received by the Office of Financial Regulation (OFR) pursuant to an application for authority to organize a new state bank or trust company under ch. 658, F.S.:

- Personal financial information.
- A driver license number, a passport number, a military identification number, or any other number or code issued on a government document used to verify identity.
- Books and records of a current or proposed financial institution.
- The proposed state bank's or proposed state trust company's proposed business plan.

The bill makes exempt from public records disclosure the personal identifying information of a proposed officer or director who is currently employed by, or actively participates in the affairs of, another financial institution that is received by the OFR pursuant to an application for the authority to organize a new state bank or trust company until the application is approved and the charter is issued. The term "personal identifying information" is defined as "names, home addresses, e-mail address, telephone numbers, names of relatives, work experience, professional licensing and education backgrounds, and photographs."

The provisions of the bill are subject to the Open Government Sunset Review Act and are repealed October 2, 2029, unless saved from repeal through reenactment by the Legislature before that date. The bill also provides a statement of public necessity as required by the State Constitution.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 33-0; House 114-1

Committee on Banking and Insurance

CS/HB 215 — Risk Retention Groups

by Insurance & Banking Subcommittee and Rep. Truenow (CS/SB 846 by Banking and Insurance Committee and Senator DiCeglie)

The bill provides that motor vehicle liability insurance coverage issued by a risk retention group operating in accordance with 15 U.S.C. ss. 3901 et seq., which conducts business in this state pursuant to s. 627.944, F.S., satisfies the financial responsibility requirements of Florida's state motor vehicle law.

Risk retention groups sell insurance to eligible members, do not submit rate and form filings to state regulators, and are not members of state guaranty associations that manage claims if an insurer becomes insolvent. Members of a risk retention group must be engaged in similar businesses or activities that have similar exposures due to the type of business, trade, product, service, premises, or operations. Risk retention groups certified or licensed in states other than Florida must comply with s. 627.944, F.S., in order to do business as a risk retention group in this state. Federal law under 15 U.S.C. s. 3902, generally exempts risk retention groups meeting certain requirements from state laws that would make unlawful the operation of a risk retention group that assumes or spreads the liability exposure of its group members.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 39-0; House 119-0

Committee on Banking and Insurance

CS/HB 241 — Coverage for Skin Cancer Screenings

by Select Committee on Health Innovation and Reps. Massullo, Payne, and others (CS/SB 56 by Banking and Insurance Committee and Senator Harrell)

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

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

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 31-0; House 114-0

Committee on Banking and Insurance

CS/SB 362 — Medical Treatment Under the Workers' Compensation Law

by Fiscal Policy Committee and Senator Bradley

The bill increases the maximum medical reimbursements for physicians and surgical procedures and the maximum fees for expert witnesses under ch. 440, F.S., the "Workers Compensation Law" (law). The law requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.

The bill increases the maximum reimbursement allowances (MRA) for physicians licensed under ch. 458, F.S., or ch. 459, F.S., from 110 percent to 175 percent of the reimbursement amount allowed by Medicare, and increases the MRA for surgical procedures from 140 percent to 210 percent of reimbursement amount allowed by Medicare.

In regard to expert medical witnesses, the law currently limits the amount health care providers can be paid for expert testimony during depositions on a workers' compensation claim to $200 per hour, unless they only provided an expert medical opinion following a medical record review or provided direct personal services unrelated to the case in dispute, in which case they are limited to a maximum of $200 per day. The bill increases the maximum hourly amount allowed for expert witnesses to $300 per hour. If an expert witnesses is subject to the daily rate, the maximum amount allowed is increased to $300 per day.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect January 1, 2025.
Vote: Senate 40-0; House 113-0

Committee on Banking and Insurance

CS/CS/SB 532 — Securities

by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Brodeur

The bill substantially revises ch. 517, F.S., the "Securities and Investor Protection Act" (Act). The Office of Financial Regulation (OFR) is responsible for administering the provisions of this chapter. The bill is based on the recommendations contained in the report issued by the Chapter 517 Task Force of the Business Law Section of The Florida Bar in coordination with the OFR. The impetus for the task force is to increase the ability of small and developing Florida businesses to raise capital, while at the same time assuring and improving investor protections and enforcement measures to guard against abuse. Since ch. 517, F.S., has not been substantially updated in many years, the bill also incorporates many small business financing provisions consistent with recently adopted federal rules or legislation adopted in other states. The bill includes the following changes:

- Revises eligibility and recovery provisions relating to the Securities Guaranty Fund (Fund), which was created to provide relief to victims of securities violations under ch. 517, F.S., who are entitled to monetary damages or restitution but cannot recover the full amount of such damages or restitution from the wrongdoer, in the following manner:
  - The bill removes a requirement that an investor who has received a final judgement that is unsatisfied must make searches and inquires to ascertain the assets of the judgment debtor, which may result in delays. Further, the bill removes a two-year waiting period for payment; and
  - The bill increases the amount an eligible person may recover from the Fund from $10,000 to $15,000, adds an exception allowing recovery of up to $25,000 if the person is a specified adult, and increasing the aggregate limit on claims from $100,000 to $250,000.
    - A specified adult is a natural person 65 years of age or older, or a natural person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.
- Eliminates a registration exemption for short-term notes of $25,000 or more, which have a maturity date of nine months or less. This type of offering is often the subject of abusive efforts by persons trying to evade registration requirements through the issuance of short-term notes to non-accredited investors. There is no comparable provision in the Uniform Securities Act and currently such notes cannot be sold under federal exemptions that preempt state registration.
- Excludes certain industrial revenue bonds and commercial development bonds issued by the United States or a state or local government from a registration exemption unless the bonds are guaranteed by a publicly traded entity. This exclusion is based on the increased risk to investors under such bonds, which depend upon revenue streams for their funding.
- Provides that exempt transactions authorized pursuant to s. 517.061, F.S., are subject to the anti-fraud provisions of s. 517.301, F.S.

- Requires a person who has six or more clients, rather than more than 15 clients, to register with the OFR as an investment adviser.

Investor Protections

Access to Capital Formation and Investment Options

- Revises the regulatory provisions relating to the intrastate crowdfunding exemption, and renames the section, the "Florida Limited Offering Exemption." These changes include increasing the maximum offering limit from one million to five million dollars, which is consistent with the federal crowdfunding rules, and reducing the technical and regulatory requirements for issuers. The issuer may engage in general advertising and general solicitation of the offering.
- Creates the "Florida Invest Local Exemption," a micro-offering exemption that allows an issuer to offer up to $500,000 in securities to residents of Florida in reliance upon the exemption. An issuer may not accept more than $10,000 from any single purchaser, unless the purchaser is an accredited investor or other specified group, for which there are no sale limits. The issuer may engage in general advertising and general solicitation of the offering.
- Revises the limited offering exemption to require a disclosure regarding a purchaser's right to void the transaction within three days from the date of purchase, and to allow additional eligible purchasers that would be excluded for purposes of the 35 purchaser limit, consistent with the Securities and Exchange Commission rules.
- Creates an exemption for a non-issuer transaction with a federal covered adviser managing investments in excess of $100 million, which is consistent with the provisions of the Uniform Securities Act.

Modernization of Chapter 517, Florida Statutes

- Adopts provisions consistent with federal rules that allow issuers to have greater access to potential investors through demonstration day (demo-day) presentations and the pre-offering (testing the waters) solicitations and communications, which allows an issuer to determine whether there is any interest in a contemplated offering of exempt securities prior to incurring the expense of preparing and conducting an offering.
- Eliminates the requirement that issuers of simplified securities offerings that use the Small Company Offering Registration (SCOR) must submit annual financial reports for the first five years following the effective date of an offering. The SCOR offering was designed for use by companies seeking to raise capital through a public offering exempt from registration under the Securities Act of 1933.
- Adopts provisions consistent with the integration of offering federal rule that provides offers and sales of securities will not be integrated if, based on the particular facts and circumstances, the issuer can establish each offering either complies with the registration requirements of the Securities Act of 1933, or that an exemption from registration is available for the particular offering.
- Adopts an exemption for accredited investors, which is consistent with the North American Securities Administrators Association accredited investor exemption model. The provision exempts offers and sales from registration if the offers and sales are made

only to persons in Florida who are, or the issuer reasonably believes are, accredited investors. Accredited investors are considered financially sophisticated investors based upon criteria such as, income, net worth, or professional experience. This exemption is an important option for small businesses attempting to raise capital.
- Clarifies, consolidates, and reorganizes provisions within ch. 517, F.S., and adopts provisions consistent with the Uniform Securities Act.

State Enforcement Authority
- Increases the amount of civil penalties the OFR may petition the court to impose against a defendant and authorizes the imposition of a civil penalty of twice the amount that would otherwise be imposed if a specified adult is the victim of a violation of ch. 517, F.S. The bill also authorizes the OFR to recover any costs and attorney fees relating to any investigation or enforcement.
- Establishes joint and several liability for any control person who is found to have violated any provision of the Act.
- Provides a person who knowingly and recklessly provides substantial assistance to another person in violation of a provision of the Act is deemed to violate the provision to the same extent as the person to whom such assistance was provided.
- Allows the OFR to issue and serve upon a person a cease and desist order if the OFR has reason to believe the person violates any provision of the Act, as well as an emergency cease and desist order under certain circumstances.
- Grants authority to the OFR to impose and collect an administrative fine against any person found to have violated any provision of the Act.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect October 1, 2024.
Vote: Senate 39-1; House 113-0

Committee on Banking and Insurance

CS/CS/SB 556 — Protection of Specified Adults

by Rules Committee; Banking and Insurance Committee; and Senators Rouson and Book

The bill provides additional protections for specified adults (a natural person age 65 years or older or a vulnerable adult) who have accounts with financial institutions and may be victims of suspected financial exploitation. A vulnerable adult is a natural person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. The bill allows financial institutions to delay disbursements or transactions of funds from an account of a specified adult under the following conditions:

- The financial institution reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction.
- The financial institution must promptly initiate an internal review of the facts and circumstances that caused the employee to reasonably believe that the financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted.
- Not later than three business days after the date on which the delay was first placed, the financial institution provides written notice of the reason for the delay to all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided on the account, unless the employee of the financial institution believes that any of the parties are involved in the suspected exploitation.
- A delay in a disbursement or transaction expires in 15 business days, and may be extended for an additional 30 business days. A court of competent jurisdiction may shorten or extend the length of any delay.
- The financial institution must develop and implement training policies or programs reasonably designed to educate specified employees on issues pertaining to financial exploitation of specified adults. Further, the financial institution must develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.
- The financial institution must create and maintain for at least five years from the date of the delayed disbursement or transactions a written or electronic record of specified information.

The bill grants immunity from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction to any financial institution who in good faith and exercising reasonable care complies with the provisions of this act. The bill does not alter the obligation of a financial institution to comply with instructions from a client absent a reasonable belief of financial exploitation. The bill does not create new rights or obligations or new duties on a financial institution under other applicable laws or rules. The bill does not limit the right of

a financial institution to refuse to place a delay on a transaction or disbursement under other laws or rules or under a customer agreement.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect January 1, 2025.
Vote: Senate 34-0; House 104-1

Committee on Banking and Insurance

CS/CS/HB 623 — Builder Warranties

by Commerce Committee; Insurance & Banking Subcommittee; and Reps. Steele, Anderson, and others (CS/CS/CS/SB 966 by Rules Committee; Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Burgess)

The bill creates s. 553.837, F.S., which requires a builder to warrant a newly constructed home for construction defects of equipment, material, and workmanship by the builder or any subcontractor or supplier resulting in a material violation of the Florida Building Code for one year after the date of original conveyance of title or after initial occupancy of the dwelling, whichever occurs first. Defects with respect to appliances or equipment that are covered by a manufacturer warranty are not within the scope of the required builder's warranty. A builder warranty need not provide coverage for any of the following:

- Normal wear and tear of the newly constructed home.
- Normal house settling within generally acceptable trade practices.
- Any object or part of the newly constructed home that contains a defect that is caused by any work performed or material supplied incident to construction, modification, or repair performed by the purchaser, or anyone acting on his or her behalf, other than the builder.
- Any loss or damage to the newly constructed home, whether caused by a purchaser, third party, or act of God.

A builder is required to remedy, at the builder's expense, the construction defects covered under the builder's warranty, including restoring any work damaged in fulfilling the warranty. The bill authorizes a builder to purchase a home warranty from a home warranty association to cover the defects that are required to be covered under the builder's warranty. A builder must comply with the builder's warranty for the full one year term even if the newly constructed home is sold or transferred.

The bill provides that the terms and conditions of a builder's express written warranty that a builder provides to an owner of a newly constructed home may supersede any provisions created under the bill in s. 553.837, F.S., if certain criteria are met, such as that the scope, coverage, and duration of the express written warranty are the same or greater than that required by the bill.

Finally, the bill provides that enforcement of the bill's provisions is limited to a private civil cause of action by a purchaser against a builder who fails to comply with the required builder's warranty. The provisions of the bill may not be construed to extend the statute of repose beyond that provided by law.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2025.
Vote: Senate 39-0; House 104-7

Committee on Banking and Insurance

CS/CS/HB 885 — Coverage for Biomarker Testing

by Health & Human Services Committee, Select Committee on Health Innovation; Rep. Gonzalez Pittman and others (CS/CS/SB 964 by Appropriations Committee on Health and Human Services; Banking and Insurance Committee; and Senator Calatayud)

The bill requires the Florida Medicaid program and the Division of State Group Insurance program to provide coverage for biomarker testing for the diagnosis, treatment, management, and ongoing monitoring of disease or condition of an enrollee or insured, respectively, to guide treatment decisions when such testing provides clinical utility as demonstrated by medical and scientific evidence. The biomarker testing services may not be construed to require coverage of biomarker testing for screening purposes. The Florida Medicaid program and the Division of State Group Insurance program are required to outline a process for insureds and providers to access a process to request an authorization for biomarker testing.

A biomarker is a biological molecule found in blood, other body fluids, or tissues that is a sign of a normal or abnormal process, or of a condition or disease. A biomarker may be used to see how well the body responds to a treatment for a disease or condition. Biomarker testing is a method to look for genes, proteins, and other substances (biomarkers or tumor markers) that can provide information about cancer and other conditions.

The provision relating to mandated coverage of biomarker testing for Medicaid managed care plans takes effect October 1, 2024. The bill directs the Agency for Health Care Administration (AHCA) to include the rate impact relating to mandated coverage of biomarker testing for managed care plans in the applicable Medicaid managed medical assistance program and the long-term managed care program rates. The provision mandating coverage of biomarker testing relating to optional Medicaid services, authorizes the AHCA to seek federal approval necessary to implement the mandated coverage requirement. The mandated coverage requirement for the Division of State Group program applies to state group health insurance policies issued on or after January 1, 2025.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024, except as otherwise expressly provided.
Vote: Senate 39-0; House 114-0

Committee on Banking and Insurance

CS/CS/CS/SB 892 — Dental Insurance Claims

by Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government; Banking and Insurance Committee; and Senator Harrell

The bill revises provisions within the Florida Insurance Code relating to covered dental services, contractual agreements, and dental claims payments by a health insurer, prepaid limited health service organization (PLHSO), or a health maintenance organization (HMO). The Office of Insurance Regulation is responsible for regulating these entities. The bill:

- Prohibits a contract between a dentist and the health insurer, HMO, or PLHSO from limiting the method of claim payments for dental services to credit card payments only;
- Requires the health insurer, PLHSO, or HMO to notify the dentist of any fees associated with an electronic funds transfer (EFT) and alternative payment methods before the insurer, HMO or PLHSO pays a dentist via EFT;
- Requires the health insurer, PLHSO, or HMO to obtain the dentist's consent via an email bearing the signature of the dentist or checking a box indicating consent prior to employing the claim payment through EFT;
- Prohibits the health insurer, HMO or PLHSO that pays a claim to a dentist through an automatic clearing house (ACH) from charging a fee solely to transmit the payment unless the dentist has consented to the fee;
- Prohibits the health insurer, HMO, or PLHSO from denying the payment of a claim if the procedure was previously authorized by an insurer, HMO, or PLHSO prior to the dentist rendering the service except under the following circumstances:
  - Benefit limitations were reached subsequent to the issuance of the prior authorization.
  - Inadequate documentation was submitted by the dentist to support the originally authorized procedures and claim.
  - Subsequent to the issuance of the prior authorization, new procedures are provided to the insured or the insured's condition changes, resulting in the prior authorized procedure not being medically necessary.
  - Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or the insured's condition changes in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.
  - The claim was denied because:
    - Another payor is responsible for payment.
    - The dentist has already been paid.
    - The claim was submitted fraudulently or the prior authorization was based on erroneous information submitted to the insurer, HMO, or PLHSO.
    - The person receiving the procedure was not eligible to receive the procedure on the date of service.
    - The services were provided during the grace period established under s. 627.608, F.S., or applicable federal regulations, and the dental insurer, HMO, or PLHSO notified the provider that the patient was in a grace period when the provider

requested eligibility or enrollment verification from the dental insurer, HMO, or PLHSO, if such request was made.

The provisions of the bill apply to all policies and contracts issued or renewed on or after January 1, 2025. The Office of Insurance Regulation has all rights and powers to enforce the provisions of the bill pursuant to s. 624.307, F.S.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect January 1, 2025.
Vote: Senate 40-0; House 113-0

Committee on Banking and Insurance

CS/CS/SB 902 — Motor Vehicle Retail Financial Agreements

by Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Boyd

Vehicle Value Protection Agreements

The bill creates the "Florida Vehicle Value Protection Agreements Act" (the "Florida Act"), which includes:

- Definitions of the terms: administrator, commercial transaction, consumer, contract holder, finance agreement, free look period, motor vehicle, provider, and vehicle value protection agreement. A "vehicle value protection agreement" (VVPA) is a contractual agreement that provides a benefit toward either the reduction of some or all of the contract holder's current finance agreement deficiency balance, or the purchase or lease of a replacement motor vehicle upon the occurrence of an adverse event to the vehicle. The term does not include guaranteed asset protection products, and the product is not insurance.
- Requirements for offering VVPAs, including provisions regarding restricting the type of charges, prohibiting certain conditional sales, utilizing an administrator, providing a copy of the agreement, prohibiting sales with duplicative coverage, and providing for financial security requirements;
- The nature, extent, and type of disclosures required in VVPAs;
- Penalties for violating the Florida Act, which include noncriminal violations punishable by a fine per violation or in the aggregate for all "violations of a similar nature," which is defined in the bill; and
- Exemption of VVPAs offered in connection with a commercial transaction from the disclosure and penalty provisions of the Florida Act.

Excess Wear and Use Waivers

The bill authorizes a retail lessee to contract with a retail lessor for an "excess wear and use waiver," which is an agreement wherein the lessor agrees to cancel all or part of amounts that may become due under the lease because of excessive wear and use of a motor vehicle. The bill prohibits the terms of the related motor vehicle lease from being conditioned upon the consumer's payment for any excess wear and use wavier, except such waiver may be discounted or given at no charge for the purchase of other noncredit-related goods or services. A lease agreement that includes an excess wear and use waiver must contain certain disclosures. An excess wear and use waiver is not insurance for purposes of the Florida Insurance Code.

Guaranteed Asset Protection Products

The bill amends the definition of "guaranteed asset protection product" ("GAP product,") which is an agreement by which a creditor agrees to waive a customer's liability for any debt that exceed the value of the collateral, to specify that a GAP product:

- May be with or without a separate charge;
- May cancel, rather than just waive, the customer's liability;

- Applies when a motor vehicle incurs total physical damage or is subject to an unrecovered theft; and
- May provide a benefit that waives a portion of, or provides a customer with a credit toward, the purchase of a replacement vehicle.

The bill also amends the provisions regarding GAP products to:

- Provide for the refund of all unearned portions of the purchase price of a contract for a GAP product if the contract is terminated, unless the contract provides otherwise;
- Prohibit an entity from deducting more than $75 in administrative fees from a refund;
- Provide that a GAP product may be cancelable or noncancelable after a "free-look period" defined in the bill; and
- Provide that if a termination of a GAP product occurs for a specified reason, the entity may pay any refund directly to the holder or administrator, and deduct the refund amount from the amount owed under the retail installment contract except if such contract has been paid in full.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect October 1, 2024.
Vote: Senate 40-0; House 113-0

Committee on Banking and Insurance

CS/CS/HB 939— Consumer Protection

by Commerce Committee; Insurance & Banking Subcommittee; Rep. Griffitts and others (CS/CS/CS/SB 1066 by Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senator Burton)

The bill amends various statutes in the area of consumer protection.

The bill requires third party settlement organizations that conduct transactions involving a payee in Florida to create a mechanism for the sender of the payment to identify whether a transaction is for goods and services or personal transactions. The sender of the payment is responsible for indicating the appropriate transaction type. All third party settlement organizations must maintain records that clearly identify whether a transaction, as designated by the sender of the payment, is a transaction for goods and services or is personal. Section 6050W of the Internal Revenue Code defines "third party settlement organization" as the "central organization which has the contractual obligation to make payment to participating payees of third party network transactions."

The bill creates a right for a residential property owner to cancel a contract to replace or repair a roof without penalty or obligation within 10 days following the execution of the contract or the official start date, whichever comes first, if the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor. The residential property owner must send the notice of cancellation to the contractor by certified mail, return receipt requested, or by another form of mailing that provides proof thereof, to the address specified in the contract. A contractor that executes a contract during a state of emergency to replace or repair a roof must include in the contract specified language providing notice of the right of cancellation in bold type of not less than 18 points immediately before the space reserved for the signature of the residential property owner.

For purposes of the Florida Commercial Financing Disclosure Law, the bill expands the definition of "depository institution" to include institutions chartered by another state, territory, or the federal government authorized to do business in Florida and whose deposits or share accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. The Florida Commercial Financing Disclosure Law requires "providers" to make certain disclosures of the terms of a commercial financing transaction. The definition of "provider" includes a person who enters into a written agreement with a "depository institution" to arrange a commercial financing transaction. Expanding the definition of "depository institution" expands the applicability of the disclosure requirements.

For purposes of an insurer reporting property insurance data to the Office of Insurance Regulation, the bill provides that any certified public accountant who prepares the mandatory annual audit for an insurer must be licensed in Florida and have completed at least 4 hours of insurance-related continuing education within each 2-year continuing education cycle. This requirement becomes effective once the courses have been created.

The bill provides that each public adjuster contract relating to a property and casualty claim must contain the license number of the public adjusting firm.

Regarding notices of change in insurance policy terms sent to a policy holder by an insurer, the bill requires, beginning January 1, 2025, the "Notice of Change in Policy Terms" to be in bold type of not less than 14 points and included as a single page or consecutive pages, as necessary, within the written notice.

Regarding short-term health insurance, the bill provides that the required disclosures in contracts for short-term health insurance must be in writing and signed by the purchaser at the time of purchase. The bill requires additional disclosures regarding duration of the contract, including any waiting period; any essential health benefit that the contract does not provide; the content of coverage; and any exclusion of preexisting conditions. The disclosures must be printed in at least 12-point type and in a color that is readable. A copy of the signed disclosures must be maintained by the issuer for a period of five years after the date of purchase. Disclosures provided by electronic means must include the content required by this provision.

Regarding notices of property insurance claims, the bill provides that a notice of claim from a condominium unit owner resulting from a loss assessment for loss assessment coverage may not occur later than three years after the date of loss and must be made by the later of one year after the date of loss or 90 days after the date on which the condominium association votes to levy the assessment. For purposes of this provision, the date of loss is the date of the covered loss event that created the need for an assessment.

The bill adopts the 2018 edition of the National Fire Protection Association Code for Fireworks Display.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 39-0; House 111-0

Committee on Banking and Insurance

CS/CS/SB 988 — Public Records/My Safe Florida Home Program

by Rules Committee; Banking and Insurance Committee; and Senator Martin

The bill provides that certain information within applications and home inspection reports submitted by applicants as part of the My Safe Florida Home Program to the Department of Financial Services is exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution. The information made exempt by the bill is:

- The components of the applicant's mailing address other than the city, zip code, and the addressee's name;
- Any phone number or email address provided by the applicant; and
- Detailed descriptions and pictures of the inside and outside of applicants' homes.

The bill applies the exemption retroactively to applications and home inspection reports submitted before, on, or after the effective date of the exemption.

The bill provides a statement of public necessity as required by the State Constitution. The exemption is necessitated because it is believed that public availability of this information puts participants in the MSFH Program at increased risk of home invasions and reduces privacy in their homes. Such risk may be significantly limited by making such information exempt.

The bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless the statute is reviewed and reenacted by the Legislature before that date.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.
Vote: Senate 35-1; House 115-0

Committee on Banking and Insurance

CS/CS/CS/HB 989 — Chief Financial Officer

by Commerce Committee; State Administration & Technology Appropriations Subcommittee; Insurance & Banking Subcommittee; and Rep. LaMarca (CS/CS/CS/SB 1098 by Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government; Banking and Insurance Committee; and Senator DiCeglie)

The bill revises provisions of multiple programs within the Department of Financial Services (DFS).

Federal Tax Liaison – The bill establishes the position of Federal Tax Liaison (Liaison) within the DFS. The Liaison, to be appointed by the Chief Financial Officer (CFO), reports directly to the CFO but is not otherwise under the authority of the DFS or of any employee of the DFS. In order to assist Florida's taxpayers, the tax liaison may assist taxpayers by answering taxpayer questions; direct taxpayers to the proper departments or offices within the Internal Revenue Service (IRS) to hasten resolution of taxpayer issues; prepare recommendations for the IRS of any actions that will help resolve problems encountered by taxpayers; provide information about the policies, practices, and procedures that the IRS uses to ensure compliance with the tax laws; and with the consent of the taxpayer, request records from the IRS to assist the liaison in responding to taxpayer inquiries.

Division of Criminal Investigations – The bill renames the Division of Investigative and Forensic Services (DIFS) to the Division of Criminal Investigations (DCI) and deletes provisions relating to the duties of the DIFS and the bureaus and offices in the DIFS. The DCI is designated as a criminal justice agency with the authority to initiate and conduct investigations into matters falling under the jurisdiction of the CFO and the State Fire Marshal. The bill abolishes the Division of Public Assistance Fraud (DPAF). The programs and responsibilities within the DPAF will be moved under the DCI.

Firefighter Cancer Benefits – The bill clarifies that the benefit package that a firefighter diagnosed with cancer meeting certain criteria may elect, as an alternative to workers' compensation, includes "leave time and job retention benefits equivalent to those provided for other injuries or illnesses incurred in the line of duty."

Special Risk – For purposes of special risk employee classification, the bill replaces references to employees of the Division of State Fire Marshal with employees of the DFS.

Risk Management – The bill repeals a requirement that the Division of Risk Management to prepare quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund for initial costs each quarter.

Qualified Public Depositories – Regarding qualified public depositories, the bill authorizes the CFO to designate a credit union as a qualified public depository if specified criteria are met, including, complying with requirements that are similar to the requirements that must be

complied with by banks, savings banks, and savings associations. All of the relevant regulatory provisions for qualified public depositories apply to any such designated credit union. The total combined amount of public deposits that may be held by all credit unions is limited to:

- A total combined amount of not more than seven percent of the total funds held in the state treasury.
- A total combined amount of not more than seven percent of all public deposits of any state university or any state college.

A credit union may not hold public deposits of more than ten percent of its total institution's assets.

Workers Compensation – The bill provides for reimbursement for emergency services and care provided when a maximum reimbursement allowance is not available. In such a case, the maximum allowance must be at 250 percent of the Medicare rate, unless there is a contract, in which case the contract governs reimbursement. The bill requires the DFS to engage an actuarial services firm to begin development of maximum reimbursement provisions contained within this section. This provision expires June 30, 2026.

Purchasing by Guaranty Associations – The bill requires purchases and contracts of $100,000 or more entered into by the Florida Self-Insurers Guaranty Association, the Florida Medical Malpractice Joint Underwriting Association, the Florida Insurance Guaranty Association, the Florida Life and Health Guaranty Association, the Florida Health Maintenance Organization Consumer Assistance Plan, and the Florida Workers' Compensation Guaranty Association, entered into after July 1, 2024, must first be approved by the DFS and that all such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Board of Funeral, Cemetery, and Consumer Services – Relating to the Board of Funeral, Cemetery, and Consumer Services (Board), the bill provides that:

- The CFO is to appoint Board members, rather than the Governor, and such appointments are subject to Senate confirmation;
- One of the funeral director members of the Board no longer must own or operate an approved incinerator facility;
- Board members may be reappointed but may not serve for more than eight consecutive years;
- Specifies the State Health Officer shall serve so long as that person holds office; however, the designee of the State Health Officer shall serve at the pleasure of the CFO;
- Provides the CFO may remove any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the CFO to evidence a lack of fitness to sit on the Board. Any vacancy created by a board member's resignation shall be filled by the CFO;
- Members of the Board are subject to the code of ethics under ch. 112, part III , F.S.;
- A Board member may not vote on any measure that would inure to his or her special private gain or loss;

- A Board member may not knowingly accept any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the DFS or Board, which is under consideration for a contract, or is licensed by the DFS;
- Board members who fail to comply with the code of ethics are subject to penalties provided under ss. 112.317 and. 112.3173, F.S.
- All meetings of the Board are subject to the open meeting requirements of s. 286.011, F.S., and all books and records of the Board are open to the public for reasonable inspection except as otherwise provided by law; and
- Except for emergency meetings, the DFS must give notice of any Board meeting by publication on the DFS website at least seven days before the meeting. The DFS must publish its agenda at least seven days before the meeting. The agenda must contain the items to be considered in order of presentation. After the agenda has been made available, a change may be made only for good cause.

The bill revises disciplinary procedures and penalties under the Board to provide that if service of an administrative complaint or citation on a licensee by certified mail cannot be obtained at the last address provided to the DFS by the licensee, then service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided to the DFS by the licensee in accordance with s. 497.146, F.S. The bill provides for public disclosure of an investigative file if the department issues an emergency order.

Human Remains – Relating to storage, preservation, and transportation of human remains, the bill provides:

- In the event of an emergency situation, including abandonment of any establishments or facilities licensed under ch. 497, F.S., or any medical examiner's facility, morgue or cemetery holding facility, the DFS may enter and secure such establishment, facility, or morgue during or outside normal business hours;
- The DFS may remove human remains and cremated remains from the establishment, facility, or morgue;
- The DFS is authorized to determine if a facility is abandoned and if there is an emergency situation;
- A licensee or licensed facility that accepts transfer of human remains and cremated remains from the DFS pursuant to an emergency situation or determination of abandonment, will not be held liable for their condition at the time of transfer; and
- That it is a third-degree felony to hold a dead human body over 24 hours without refrigeration or otherwise preserving the body until final disposition, or to fail to cover human remains that are being transported or stored and treat the remains with dignity and respect.

Pre-Need Contracts – Relating to fulfillment of pre-need contracts, the bill provides:

- Upon delivery of merchandise or performance of services in fulfillment of a preneed contract, either in part of in whole, a preneed licensee may withdraw the amount

deposited in trust plus income earned on such amount for the merchandise delivered or services performed, when adequate documentation is submitted to the trustee;
- That certain documentation is proof that a preneed funeral contract has been fulfilled; and
- A preneed licensee shall maintain documentation that supports fulfillment of a particular contract until such time as the records are examined by the DFS.

Division of Consumer Services – The bill requires eligible surplus lines insurers to respond, in writing or electronically, to the Division of Consumer Services within the DFS within 14 days after receipt of a written request from the Division for documents and information concerning a consumer complaint. This section of the bill also requires authorized insurers and eligible surplus lines insurers to file e-mail addresses with the DFS to which requests for response to consumer complaints may be directed. The insurer must designate a contact person for escalated complaint issues and must provide the name, e-mail address, and telephone number of the contact person.

Licensure Requirements – The bill requires the DFS to make provisions for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purposes of two-factor authentication of login credentials only. A separate bill, SB 1078 (2024), proposes to exempt these phone numbers from public records requirements.

The bill adds "Registered Claims Adjuster (RCA) from American Insurance College" to the list of individuals exempted from the examination requirement to become an agent or public adjuster.

The bill allows the DFS to disclose confidential investigative information to the subject of an investigation, or the subject's representative, in order to review the details of the investigation.

The bill adds the designation of "Chartered Customer Service Representative (CCSR) from American Insurance College" to the list of criteria for applicants to qualify as a customer representative.

The bill requires a licensed public adjuster to identify themselves in any advertisements, solicitations or written documents based on the adjuster appointment type held. The bill also provides that an adjuster who has had his or her license revoked or suspended may not participate in any part of an insurance claim or in the insurance claim adjusting process. A person who provides these services while the person's license is revoked or suspended acts as an unlicensed adjuster.

The bill provides that a general lines agent, while licensed as a surplus lines agent, may appoint licenses with a single surplus license agent appointment pursuant to s. 624.501, F.S. Such an appointed agent may only originate surplus lines business and accept surplus lines business from other originating Florida-licensed general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer.

State Fire Marshal – Regarding the State Fire Marshal, the bill:

- Adopts the National Fire Protection Association, Inc., Standard 1126, 2021 Edition, Standard for the Use of Pyrotechnics before a Proximate Audience;
- Amends s. 633.202, F.S., relating to the Florida Fire Prevention Code to provide that the State Fire Marshal may not adopt an accessibility code, since accessibility is provided for under the Florida Building Code Americans with Disabilities Act (ADA) accessibility code; and
- Amends s. 633.206, F.S., to require the DFS to establish uniform fire safety standards for mobile food dispensing vehicles and energy storage systems.

Motor Vehicle Service Agreements – Regarding motor vehicle service agreement companies, the bill:

- Amends s. 634.041, F.S., to allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations; and
- Amends s. 634.081, F.S., to allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Home Warranty Associations – Regarding home warranty associations (associations), the bill amends s. 634.3077, F.S., to provide that an association is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation if the association complies with the following:

- The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the OIR with the following:
  - A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, that clearly demonstrate the net worth of the association or its parent corporation to be $100 million, and a quarterly written certification to the OIR that the association or its parent corporation continues to maintain the net worth required under this paragraph; and
  - The association's or its parent corporation's Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission, or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.
- If the net worth of a parent corporation is used in lieu of the establishment of an unearned premium reserve or the maintenance of contractual liability insurance to satisfy the net worth requirements, the following must be met:
  - The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the OIR;

- A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the OIR written notice at least 90 days before the effective date of the cancellation, termination, or modification and the OIR approves the request in writing;
- Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the OIR compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section;
- If the association or parent corporation does not demonstrate to the satisfaction of the OIR compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification; and
- The association must maintain at all times net assets of at least $750,000.

The bill exempts a municipality, a county government, a special district, an entity operated by a municipality or county government, or an employee or agent of a municipality, county government, special district, or entity operated by a municipality or county government from home warranty association licensing and appointment requirements.

Bail Bonds – Regarding the regulation of bail bonds, the bill:

- Defines "referring bail bond agent" to mean the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company; and
- Defines "transfer bond" to mean the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody.
- Provides that the papers, documents, reports, or any other records of an investigation (related to bail bond regulation) by the DFS that are made confidential and exempt from the public records law until such investigation is completed or ceases to be active, are not confidential and exempt once the DFS or the OIR files a formal administrative complaint, emergency order, or consent order against the individual or entity.
- Provides that the confidential and exempt investigative records may be disclosed to the subject of the investigation, or the subject's representative, in order to review the details of the investigation.
- Provides that bail bond agents are not required to be employed with a bail bond agency.
- Removes the requirement of the submission of a full face photograph with a limited surety's or bail bond agent's application for license.

Financial Institution Unsafe and Unsound Practices –Regarding financial institutions, the bill:

- Clarifies the definition of "unsafe and unsound practices" in the financial institutions codes, to include the suspension or termination of a customer's or member's services on a specified basis, such as political opinions, religious beliefs, or non-quantitative standard.
- Provides the process that must be complied with following a complaint for unsafe and unsound practices being submitted by a customer or member of a financial institution, including:
  - Requiring the Office of Financial Regulation (OFR) to notify a financial institution that a complaint has been made;
  - Requiring such financial institution, unless precluded by law, to file a complaint response report with the OFR within 90 calendar days of receiving notice from the OFR;
  - Requiring an investigation to begin within 90 days of receiving notice; and
  - Requiring that OFR must provide an investigation report, unless precluded by law, to the complaining party and the financial institution and, if there is a violation, to the DFS and the proper enforcing authority under the Florida Unfair and Deceptive Trade Practices Act.
- If the complaint response report indicates that the financial institution took action due to suspicious activity, the initial investigation by the OFR must be handled in accordance with s. 655.50, F.S. If the OFR determines that the financial institution's action was taken without any basis under s. 655.50, F.S., the OFR must continue to investigate and determine whether the financial institution engaged in unsafe and unsound practices in violation of s. 655.0323(2), F.S. The Financial Services Commission is authorized to adopt rules to administer the provisions.

Unclaimed Property – The bill substantially revises the Florida Disposition of Unclaimed Property Act (Act). The bill:

- Provides or revises definitions for the following terms: "audit;" "audit agent;" "banking organization;" "business association;" "claimant's representative;" "domicile;" "due diligence;" "electronic;" "financial organization;" "holder;" "intangible property," to include virtual currency; "owner;" "person;" "record;" "unclaimed property purchase agreement;" "unclaimed property recovery agreement;" and "virtual currency." The bill repeals the definition of "ultimate equitable owner."
- Provides that a presumption that property is unclaimed is rebutted by an apparent owner's expression of interest in the property. The bill specifies actions that constitute an owner's expression of interest in property, including any action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.
- Provides that any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within five years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the

banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity; and

- Provides that a holder may not deduct from the amount of any virtual currency held subject to the Act any charges imposed by reason of the failure to present the instrument for encashment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose those charges and does not regularly reverse or otherwise cancel those charges with respect to the instrument.
- Provides that stock or other equity interest in a business association is presumed unclaimed on the date of the earliest of the following:
  - Three years after the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property;
  - Three years after the date of the death of the owner, as proven by certain evidence; or
  - One year after the date on which the holder receives notice of the owner's death, if the notice is received two years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of two years or less.
- Provides that intangible property held in a fiduciary capacity for the benefit of another person is presumed unclaimed unless the owner has within five years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated, in writing, concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary; provides that the provisions in that section do not relieve a fiduciary of its duties under the Florida Trust Code.
- Effective January 1, 2025, requires holders to report owner or account information for unclaimed property valued at $10 or more to the DFS, rather than the current threshold of $50, and that such reporting be made electronically.
- Provides that the required written notice to the apparent owner of unclaimed property must identify the property and any fixed value of the property, that the property will be turned over to the DFS if no response is received within 30 days of the notice, that such property (if not United States legal tender) may be sold or liquidated by the DFS, and what the apparent owner must do to obtain the property from the holder or, once the property is turned over to the DFS, from the DFS.
- Provides that virtual currency reported on the annual report must be remitted to the DFS with the report. The holder must liquidate the virtual currency within 30 days before the filing of the report and remit the proceeds to the DFS. Upon delivery of the proceeds, the holder is relieved of all liability for any losses or damages resulting by the delivery of the virtual currency proceeds.
- Provides a holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder. Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible

for fulfilling the holder's obligations under the chapter. A holder is not prohibited from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible for the complete, accurate, and timely reporting of the property.

- Provides that a holder's substantial compliance with the written notice requirements of s. 717.117(6), F.S., and good faith payment or delivery of property terminates any legal relationship between the holder and the owner and releases the holder from liability that may arise from such payment or delivery, and such delivery and payment may be pled as a defense in any suit or action brought by reason of such delivery or payment. This provision does not relieve a fiduciary of duties under the Florida Trust Code or Florida Probate Code. If the holder delivers property to the DFS in good faith and thereafter any other person or state claims the property, the DFS must defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state. The bill provides a payment or delivery of property is made in good faith if:
  - The payment or delivery was made in conjunction with an accurate and acceptable report;
  - The payment or delivery was made in a reasonable attempt to comply with the chapter and other applicable Florida law;
  - The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter; and
  - There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.
- If it appears to the DFS that, because of mistake of fact or error, a person has delivered to the DFS any property not required to be so delivered, the DFS may, within five years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with the chapter.
- Includes devisee, heir, personal representative, or other interested person of an estate among those persons who must file a claim with the DFS for any interest in unclaimed property.
- Increases the threshold for small estate accounts to be accompanied with a signed affidavit from $10,000 to $20,000.
- Provides that the ten-year period of limitation on the DFS to enforce the provisions of the chapter is tolled by the earlier of the DFS's or audit agent's delivery of a notice that a holder is subject to an audit or examination or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.
- Revises the enforcement powers of the DFS to include the authority to:
  - Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim;
  - Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to the chapter to determine whether the person complied with the chapter. Such records may include information

to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the DFS;
  - Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with the chapter;
  - Issue an administrative subpoena to require that certain records be made available for examination or audit and that certain testimony be provided;
  - Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under the enforcement authority of the DFS; and
  - Bring an administrative action or an action in a court of competent jurisdiction to enforce the Act.
  - If a person is subject to reporting property under the Act, the DFS may require the person to file a verified report that:
    - States whether the person is holding property reportable under the Act;
    - Describes the property not previously reported, the property about which the DFS has inquired, or the property that is in dispute as to whether it is reportable under; and
    - States the amount or value of the property.
  - The DFS may authorize a compliance review of a report for a specified reporting year that is limited to the contents of the report filed and all supporting documents. If the review results in a finding of a deficiency in unclaimed property due and payable, the DFS must notify the holder in writing of the amount of deficiency within one year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the DFS may seek to enforce the assessment under subsection (1). The DFS is not required to conduct a review under this section before initiating an audit.
- Clarifies in a contract providing for the location or collection of unclaimed property, the DFS may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The DFS must annually report to the CFO the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.
- Provides if any material obtained during an investigation or examination contains a holder's financial or proprietary information, such information may not be disclosed or made public after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Any such material may be considered a trade secret and exempt from the public records law.
- Provides the fee for the costs of the investigation or audit shall be remitted to the DFS within 30 days after the date of notification the fee is due and owing and allows the DFS to charge interest at the rate of 12 percent per annum.
- Increases the duration holders must retain records of unclaimed property from five to 10 years.
- Removes the requirement that a person must be registered with the DFS in order to purchase unclaimed property.

- Provide the penalties only apply to willful violations the Act.
- Removes the threshold of $2,000 or less for agreements that may be signed electronically, allowing all such agreements to be signed electronically.
- Provides that the recovery agreements provisions do not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy estate representative or other person or entity authorized pursuant to Title 11 of the United States Code or an order of a bankruptcy court to act on behalf of or for the benefit of the debtor, its creditors, and its bankruptcy estate.

Florida Birth-Related Neurological Injury Compensation Association – Regarding the Florida Birth-Related Neurological Injury Compensation Association (NICA), the bill:

- Revises the definition of "Family residential or custodial care" to remove an exclusion that the award of family residential or custodial care is not to be included in current estimates for purposes of assessments;
- Removes the exclusion of 20 percent of the asset value from the calculation of assets and liabilities to provide that if the total of all current estimates equals or exceeds 100 percent (presently, it is 80 percent) of the funds on hand and the funds that will become available within the next 12 months, the association may not accept any new claims without express authority from the Legislature; and
- Requires NICA, in consultation with the Office of Insurance Regulation and the Agency for Health Care Administration, to provide a report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives by September 1, 2024. The report must include recommendations for:
  - Defining actuarial soundness for the association, including options for phase-in, if appropriate;
  - Timing of reporting actuarial soundness and to whom it should be reported; and
  - Ensuring a revenue level to maintain actuarial soundness, including options for phase-in, if appropriate.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.
Vote: Senate 35-3; House 92-9

Committee on Banking and Insurance

CS/CS/CS/HB 1029 — My Safe Florida Condominium Pilot Program

by Commerce Committee; State Administration & Technology Appropriations Subcommittee; Insurance & Banking Subcommittee; and Reps. Lopez, V., Hunschofsky, and others (CS/CS/SB 1366 by Appropriations Committee; Banking and Insurance Committee; and Senators DiCeglie and Pizzo)

The bill creates the My Safe Florida Condominium Pilot Program (Program) within the Department of Financial Services (DFS), to provide hurricane mitigation inspections and hurricane mitigation grants to eligible condominium associations. Implementation of the Program is subject to annual legislative appropriations. Under the Program, the DFS must provide fiscal accountability, contract management, and strategic leadership for the Program.

The bill provides, to condominium associations with condominium property within 15 miles of the coastline, a program similar to that of the My Safe Florida Home Program (MSFH) for owners of site-built, single-family, residential properties regarding requirements for participation, hurricane mitigation inspectors and inspections, eligibility for mitigation grants, contract management by the DFS, and required annual reports.

The bill places specific limits on grant awards. The limit for roof-related projects is set at $11 per square foot times the square feet of the replacement roof, limited to $1,000 per unit, and the maximum grant contribution is limited to 50 percent of the project. The limit for opening protection-related projects grant contribution is a maximum of $750 per replacement window, not to exceed $1,500 per unit, and a maximum grant contribution of 50 percent of the project. The bill provides that an association may receive grant funds for both roof-related and opening protection-related projects, but the maximum grant contribution is limited to $175,000 per association.

The bill provides that the DFS may not accept grant applications or maintain a waiting list for grants after the cumulative value of the grants awarded have fully obligated the appropriation, unless the Legislature provides express authority otherwise.

The bill requires the DFS to adopt rules to govern the program; to govern hurricane mitigation inspections and grants, mitigation contractors, and training of inspectors and contractors; and to carry out its duties under the Program.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 39-0; House 116-0

Committee on Banking and Insurance

CS/HB 1031 — Debt Relief Services

by Insurance & Banking Subcommittee and Rep. Buchanan (CS/SB 1074 by Banking and Insurance Committee and Senator Calatayud)

The bill adds an exception to the provisions of credit counseling services under ch. 817, part IV, F.S., for telemarketers and sellers who:

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

The terms "telemarketer," "seller," and "debt relief service" have the same meaning as the definitions in the TSR, which provides:

- "Telemarketer means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor."
- "Seller means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration."
- "Debt relief service means any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector."

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 39-0; House 119-0

Committee on Banking and Insurance

SB 1078 — Public Records/Cellular Telephone Numbers Held by the Department of Financial Services

by Senator DiCeglie

The bill exempts from public records inspection and copying requirements cellular telephone numbers voluntarily submitted to the Department of Financial Services (DFS) as part of the application process for licensure for the purpose of two-factor authentication of login credentials.

Legislation filed this legislative session, CS/CS/CS/HB 1098, requires the DFS to allow licensure applicants to voluntarily submit cellular telephone numbers to the DFS during the application process for the purpose of two-factor secure login authentication. Such applicants include insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.

The bill provides a statement of public necessity as required by the State Constitution. According to the public necessity statement contained in the bill, the exemption from public records inspection and copying requirements is necessary because the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system, which is otherwise designed to increase the ease of filing records, would be hindered.

The bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless the statute is reviewed and reenacted by the Legislature before that date.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 112-0

Committee on Banking and Insurance

CS/HB 1347 — Consumer Finance Loans

by Commerce Committee and Rep. Brackett (CS/SB 1436 by Appropriations Committee on Agriculture, Environment, and General Government and Senator Burton)

The bill revises laws governing consumer finance loans, which are loans of $25,000 or less for which a lender charges an interest rate greater than 18 percent per annum. The Florida Consumer Finance Act in ch. 516, F.S., provides an exemption from Florida's prohibition against usurious contracts, under which any interest rate greater than 18 percent per annum is prohibited.

The bill increases the maximum limits of consumer finance loan interest rates to no more than 36 percent per annum, computed on the first $10,000 of the principal amount; 30 percent per annum on that part of the principal amount exceeding $10,000 and up to $20,000; and 24 percent per annum on that part of the principal amount exceeding $20,000 and up to $25,000.

The bill increases the number of days a payment must be in default before a delinquency charge may be imposed from 10 days in default to 12 days in default.

The bill revises the licensure process to allow a single licensure application for the principle place of business and all branches. The bill defines a "branch" as any location, other than a licensee's principal place of business, at which a licensee operates or conducts consumer finance loan business or controls for the purpose of conducting consumer finance loan business.

The bill requires consumer finance lenders, in any county designated in a Federal Emergency Management Agency (FEMA) major disaster declaration, to suspend for 90 days after the initial date of such declaration, the following:

- The application of delinquency charges for payments in default for at least 12 days;
- Repossessions of collateral pledged to a consumer finance loan; and
- The filing of civil actions for the collection of amounts owed under a consumer finance loan.

The bill also requires consumer finance lenders to:

- Provide notice to the Office of Financial Regulation (OFR) of any assistance program offered by the lender to borrowers impacted by a disaster subject to a FEMA major disaster declaration;
- Offer a free credit education program or seminar to borrowers at the time a loan is made; and
- Annually report to the OFR information detailing loans issued by the lender during the previous calendar year.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 21-18; House 104-10

Committee on Banking and Insurance

CS/CS/HB 1503 — Citizens Property Insurance Corporation

by Commerce Committee; Insurance & Banking Subcommittee; and Rep. Esposito and others (CS/CS/SB 1716 by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Boyd)

The bill allows surplus lines insurers meeting certain criteria and approved by the Office of Insurance Regulation (OIR) to submit take-out offers on personal lines residential risks insured by Citizens, or for which Citizens has received an application for coverage, if such risks are not primary residences or do not have a valid homestead exemption under ch. 193, F.S. A "primary residence" is defined as a dwelling that is the policyholder's primary home or is a rental property that is the primary home of the tenant, and which the policyholder or tenant occupies for more than nine months of each year.

A take-out offer from an approved surplus lines insurer will only render a Citizens policyholder ineligible for Citizens if the premium offered does not exceed the Citizens premium on comparable coverage by more than 20 percent; this is the standard that applies to take-out offers from authorized insurers. Only surplus lines insurers that are approved to participate by the OIR may make participate in the take-out program. To obtain approval, the surplus lines insurer must apply to the OIR to participate in the take-out process, provide data to the OIR related to coverage and rates, and file rates for review with the OIR for the take-out offer. The surplus lines insurer must also meet certain criteria such as having an "A-" financial strength rating from A.M. Best and having a personal lines residential risk program that is managed by a Florida resident surplus lines broker.

The bill revises the Citizens eligibility requirement that certain personal lines residential risks must maintain flood insurance, by requiring flood insurance only on the dwelling. This provision is effective upon the bill becoming law.

The bill makes statutory changes to facilitate the transition of Citizens Property Insurance Corporation from an organizational structure where Citizens policies are held in three different accounts (a personal lines account, commercial account, and a coastal account) to a structure where all Citizens policies are held in a single account (the Citizens account). A primary benefit of a single-account structure is that it eliminates the possibility of a Citizens account experiencing a deficit necessitating policyholder surcharges and emergency assessments while one of Citizens' other accounts has surplus funds.

The bill provides that only licensed agents holding appointments by at least three authorized insurers that are actually writing or renewing property insurance in this state may be appointed by Citizens as its licensed agents. Current law requires the agent to hold an appointment by only one such insurer.

The bill also:

- Revises the signed acknowledgment of potential policyholder surcharge and assessment liability that agents must obtain from an applicant for Citizens coverage for the purpose of conforming the revised surcharge and assessment liabilities associated with the reorganization of Citizens into a single account;
- Provides that the executive director of Citizens is the agency head of Citizens for purposes of procurement bid protests under s. 287.057, F.S., and authorizes the executive director to appoint a designee to act on his or her behalf for all purposes under the that statute;
- Deletes language prohibiting the application of the Division of Administrative Hearing's bond requirements related to Citizens bid protest hearings;
- Allows licensed surplus lines agents access to confidential and exempt claims files for the purpose of considering whether to write a risk currently insured by Citizens;
- Authorizes Citizens to share its claims data with the National Insurance Crime Bureau (NICB), so long as the NICB maintains the confidentiality of certain documents;
- Authorizes Citizens to acquire patents, trademarks, and copyrights on work products and take action to enforce its rights therein; and
- Makes technical and clarifying changes.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024, except where otherwise provided.
Vote: Senate 40-0; House 113-0

Committee on Banking and Insurance

CS/HB 1569 — Exemption from Regulation for Bona Fide Nonprofit Organizations

by Insurance & Banking Subcommittee and Rep. Grant and others (CS/SB 514 by Banking and Insurance Committee and Senators Boyd and Stewart)

The bill exempts from the regulations under ch. 494, F.S., a bona fide nonprofit organization and any employee thereof who acts as a loan originator only with respect to his or her work duties and only with respect to residential mortgage loans with terms that are favorable to the borrower. This exemption is substantially similar to the exemption permitted under the federal Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act) except that the exemption in the bill also covers the bona fide organization (not only the employee of such organization.)

The bill also:

- Provides that the Office of Financial Regulation (OFR) must determine whether an organization satisfies all of the following factors to be deemed a bona fide nonprofit organization:
  - Has the status of a tax-exempt organization under s. 501(c)(3), of the Internal Revenue Code.
  - Promotes affordable housing or provides homeownership education or similar services.
  - Conducts its activities in a manner that serves public or charitable purposes rather than commercial purposes.
  - Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients.
  - Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients.
  - Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.
- Requires the OFR to determine that the terms of residential mortgage loans provided to or identified for the borrower are consistent with loan origination in public or charitable context, rather than a commercial context.
- Requires the OFR to periodically examine the books and activities of the organization and revoke its status if the organization does not continue to meet the requirements.

The bill expands the Financial Services Commission's rulemaking authority to prescribe criteria and processes for determining whether an organization is and remains a bona fide nonprofit organization for the purpose of determining whether the organization and its employees acting as loan originators may be exempt from regulation under ch. 494, F.S.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 40-0; House 118-0

Committee on Banking and Insurance

CS/CS/HB 1611 — Insurance

by Commerce Committee; Insurance & Banking Subcommittee; and Rep. Stevenson and others (CS/CS/SB 1622 by Fiscal Policy Committee; Banking and Insurance Committee; and Senators Trumbull and Perry)

The bill revises various provisions relating to the Office of Insurance Regulation (OIR).

Residential Property Insurance Reporting

The bill requires each insurer and insurer group, beginning January 1, 2025, to file the required personal and commercial lines residential property insurance supplemental reports to the annual report monthly, rather than quarterly, and to provide such information broken down by zip code rather than by county.

The bill provides the Financial Services Commission authority to adopt rules to administer provisions that require any insurer planning to nonrenew more than 10,000 residential property insurance policies in this state within a 12-month period to give the OIR at least 90 days written notice before issuing notices of nonrenewal.

Public Housing Self-Insurance Funds

Regarding public housing self-insurance funds, the bill specifies that reinsurance may be used as part of its program to protect the financial stability of the fund. The bill provides that a continuing program of excess insurance coverage and reinsurance must:

- Include a net retention in an amount and manner selected by the administrator, ratified by the governing body, and certified by a qualified actuary;
- Include reinsurance or excess insurance from authorized insurance carriers or eligible surplus lines insurers; and
- Be certified by a qualified and independent actuary as to the program's adequacy.

The bill eliminates a requirement that the program retain a per-loss occurrence that does not exceed $350,000.

Cancellation or Nonrenewal of Surplus Lines Residential Property Insurance Policies

Regarding notices of cancellation or nonrenewal by surplus lines insurers, the bill provides:

- Upon a declaration of an emergency pursuant to s. 252.36, F.S., and the filing of an order by the Commissioner of Insurance Regulation, a surplus lines insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property which has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency for a period of 90 days after the dwelling or residential property has been repaired. A dwelling or residential property is deemed to be repaired when substantially completed and restored

to the extent that the dwelling or residential property is insurable by another insurer that is writing policies in the area;

- Exceptions allowing the surplus lines insurer to cancel the policy:
  - Upon 10 days notice for nonpayment of premium.
  - Upon 45 days notice:
    - For a material misstatement or fraud;
    - If the insurer determines the insured has unreasonably caused a delay in repairs;
    - If the insurer or its agent makes a reasonable written inquiry to the insured as to the status of repairs, and the insured fails within 30 calendar days to provide a response; or
    - If the insurer has paid policy limits;
- If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 day notice to the insured that the insurer intends to nonrenew the policy 90 days after the dwelling or residential property has been repaired;
- Other than the specified limitations proscribed within this section, the insurer may cancel or nonrenew the policy 90 days after the repair is completed for the same reasons the insurer would have otherwise canceled or nonrenewed the policy; and
- The Financial Services Commission may adopt rules, and the Commissioner of the Office of Insurance Regulation may issue orders, necessary to implement this requirement.

Residential Property Insurance Ratemaking

Regarding rate standards for residential property insurance, the bill provides that if an averaged model is used in ratemaking, the same averaged model must be used throughout this state. If a weighted average is used, the insurer must provide the OIR with an actuarial justification for using the weighted average which shows that the weighted average results in a rate that is reasonable, adequate, and fair.

Regarding coverage under the Citizens Property Insurance Corporation (Citizens), the bill repeals provisions that allow Citizens to apply a different rate methodology to policies which, immediately prior to being insured by Citizens, were insured by an insurer determined by the OIR to be unsound or that was placed in receivership. Rates for such policies, if they cover a primary residence, will be subject to the Citizens rate "glidepath" which will restrict rate increases to 13 percent for 2024, rather than a prohibition on rate decreases and a limit of 50 percent on rate increases at issuance at renewal. If such policies do not cover a primary residence, the prohibition on rate decreases and the 50 percent limit on rate increases will apply.

Roof Inspections

The bill provides that a licensed roofing contractor is considered an "authorized inspector" for purposes of s. 672.7011(5), F.S., to provide roof inspections to determine if an insurer may require the replacement of a roof that is at least 15 years old as a condition of continuing to provide homeowner's property insurance for a risk.

Insurance Holding Company System Model Regulation

The bill amends s. 628.801, F.S., to provide that the Financial Services Commission may adopt rules for the filing of the annual enterprise risk report by an authorized insurer that is a member of an insurance holding company in accordance with the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners (NAIC), as adopted in December 2020.

Reciprocal Insurers

Regarding the regulation of reciprocal insurers, the bill substantially rewrites provisions regulating reciprocal insurers.

Investigations and Examinations – The bill specifies that for any proposed reciprocal insurer the OIR may investigate various aspects of the reciprocal insurer's attorney in fact, members of its subscribers' advisory committee or officers of its attorney in fact, and stockholders and directors of any attorney in fact of the reciprocal insurer. The OIR may also conduct market conduct examinations of the attorney in fact of each reciprocal insurer.

Fiduciary Duty – The bill provides that an attorney in fact has a fiduciary duty to the subscribers of the reciprocal insurer.

Definitions – The bill defines the terms "affiliated person," "attorney in fact," "controlling company," and "reciprocal insurer."

Permit Applications – The bill requires that a reciprocal insurer application must include certain information, including the name of the proposed reciprocal insurer and location of its principal office, the kinds of insurance it proposes to transact, the names and addresses of the original subscribers, certain information about the proposed attorney in fact, the articles of incorporation and bylaws, certain information about the subscribers' advisory committee, a copy of the proposed subscribers' agreement, and a copy of each form the insurer proposes to use.

A permit application as a domestic reciprocal insurer must include certain information, including required documents and a copy of the required bond, statements affirming that all moneys not payable to the attorney in fact will be held in the name of the insurer and for the purposes specified in the subscribers' agreement, and a statement that each original subscriber has in good faith applied for insurance and the insurer received the full premium or premium deposit for such coverage for at least a six month term.

To maintain its eligibility for a certificate of authority, a domestic reciprocal insurer must continue to meet all conditions required under the chapter and the rules for the initial applications for a permit and certificate of authority.

Fiduciary Duty – The bill provides that the attorney in fact has a fiduciary duty to the subscribers of the reciprocal insurer.

Acquisitions – The bill provides the following requirements regarding the acquisition of 10 percent or more of a reciprocal insurer:

- A person may not acquire 10 percent or more of the outstanding voting securities of an attorney in fact unless the OIR approves the acquisition after notice of the acquisition is provided to the OIR, the attorney in fact, the subscribers' advisory committee (which must then notify the subscribers regarding how to object to the acquisition), and the domestic reciprocal insurer.
- The requirements do not apply to any acquisition of voting securities or ownership interest of an attorney in fact or of a controlling company by any person who is the owner of a majority of the voting securities or ownership interest with the approval of the OIR.
- The OIR may waive, or the person filing the notice may request that the OIR waive, the requirement that the subscribers' advisory committee provide notice to subscribers of the proposed acquisition, if there is no change in ultimate controlling shareholders and their ownership percentages and no unaffiliated parties acquire any interest in the attorney in fact.
- The application must contain certain information the OIR deems necessary to determine the character, experience, ability, and other qualifications of the person or affiliated person seeking to make the acquisition so that the OIR can protect the reciprocal insurer's subscribers and the public.
- An amendment to the application must be filed with the OIR detailing any changes in facts or the background information detailed in the application.
- The applicant has the burden of proof.
- During the application review period, any person or affiliated person complying with the filing requirements may proceed and take all steps necessary to conclude the acquisition so long as the acquisition becoming final is conditioned upon approval by the OIR. A material change in the operation or management of the attorney in fact or controlling company, unless specifically approved by the OIR, is prohibited;
  - "Material change in the operation of the attorney in fact" is defined to mean a transaction that disposes of or obligates five percent or more of the domestic reciprocal insurer.
  - "Material change in the management of the attorney in fact" is defined to mean any change in management involving officers or directors of the attorney in fact or any person of the attorney or controlling company having authority to dispose of or obligate five percent or more of the attorney in fact's capital or surplus.
- The proceeding must conducted within 60 days after the date of the written request is received by the OIR and the OIR will issue a recommended order within 20 days after the date of the close of the proceedings. A final order will be issued within 20 days after the date of the recommended order or, if exceptions are filed, within 20 days after the date exceptions are filed.
- If at any time, the OIR finds an immediate danger to the public health, safety, and welfare of the reciprocal insurer's subscribers exists, the OIR shall immediately order the

proposed acquisition disapproved and any further steps to conclude the acquisition ceased. The OIR may disapprove any acquisition by any person or affiliated person who willfully violates these acquisition requirements or violates the OIR orders related to divestiture or the acquisition of specified additional stock or ownership interest without complying with this section.

- The OIR generally must approve an acquisition if the OIR finds that the acquisition will not jeopardize the financial stability of the attorney in fact or prejudice the interests of the reciprocal insurer's subscribers or harm the public. OIR approval of an offer or acquisition does not constitute a recommendation by the OIR. Any acquisition contrary to this section is void, as is any vote by a stockholder of record or any other person of any security so acquired.
- A presumption of control may be rebutted by filing a valid disclaimer of control.
- The OIR may order divesture by a person who acquires 10 percent or more of voting securities of an attorney in fact or a controlling company without complying with this section. The OIR may suspend or revoke the certificate of authority of the reciprocal insurer whose attorney in fact or controlling company is acquired in violation of this section.
- A person who violates these provisions commits a third degree felony, punishable as provided in ss. 775.082, 775.083, and 775.084, F.S.

Background Information – The bill requires that persons required to provide information on their background and identity must file a sworn biographical statement on a form adopted by the commission and fingerprints. The sworn biographical statement must include certain details regarding the person's business and employment history for the past 20 years.

Attorneys in Fact, Officers, and Directors of Insolvent Reciprocal Insurers – The bill provides that any person who served as an attorney in fact, or as an officer, director, or manager of an attorney in fact, any member of a subscribers' advisory committee of a reciprocal insurer doing business in this state, or an officer or director of any other insurer doing business in this state, and who served in that capacity within the two-year period before the date the insurer or reciprocal insurer became insolvent, for any insolvency that occurs on or after July 1, 2024, may not, unless the individual demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency:

- Serve as an attorney in fact, or as an officer, director, or manager of an attorney in fact, or a member of a subscribers advisory committee of a reciprocal insurer doing business in this state, or an officer or director of any other insurer doing business in this state; or
- Have direct or indirect control over the selection or appointment of an attorney in fact, or of an officer, director, or manager of an attorney in fact, or a member of the subscribers' committee of a reciprocal insurer doing business in this state, or an officer or director of any insurer doing business in this state, through contract, trust, or by operation of law, unless the individual demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

Impairment of Surplus – The bill provides that upon impairment of the surplus of a nonassessable reciprocal insurer, the OIR must revoke its authorization. Such revocation does not subject existing policies to assessments for the remainder of the period for which the premium has been paid. After revocation, no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber. Upon revocation of the authority to issue nonassessable policies, the reciprocal insurer may not issue or renew nonassessable policies or convert assessable policies to nonassessable policies, and the provisions of s. 629.301, F.S., apply to such insurer.

Merger or Conversion – Provides requirements for mergers and conversions. A domestic stock insurer may not be converted to a reciprocal insurer. Any plan to merge a reciprocal insurer with another reciprocal insurer or for conversion of the reciprocal insurer to a stock or mutual insurer must be filed with the OIR on forms adopted by the Financial Services Commission and must contain such information as the OIR reasonably requires to evaluate the transaction. An assessable reciprocal insurer may be converted to a nonassessable reciprocal insurer if the subscriber's advisory committee approves, the attorney in fact submits the required application, and the OIR approves.

Rulemaking – Provides rulemaking authority to the Financial Services Commission to adopt, amend, or repeal rules necessary to implement the chapter.

Florida Birth-Related Neurological Injury Compensation Association

Regarding the Florida Birth-Related Neurological Injury Compensation Association (NICA), the bill:

- Removes an exclusion providing that the award of family residential or custodial care is not to be included in current estimates for purposes of assessments;
- Provides that if the total of all current estimates of claims equals or exceeds 100 percent (presently, it is 80 percent) of the funds on hand and the funds that will become available within the next 12 months, the association may not accept any new claims without express authority from the Legislature; and
- Requires NICA, in consultation with the Office of Insurance Regulation and the Agency for Health Care Administration, to provide a report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives by September 1, 2024. The report must include recommendations for:
  - Defining actuarial soundness for the association, including options for phase-in, if appropriate;
  - Timing of reporting actuarial soundness and to whom it should be reported; and
  - Ensuring a revenue level to maintain actuarial soundness, including options for phase-in, if appropriate.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 40-0; House 112-0

Committee on Banking and Insurance

CS/SB 7028 — My Safe Florida Home Program

by Fiscal Policy Committee and Banking and Insurance Committee

The bill amends various provisions relating to the My Safe Florida Home Program to:

- Allow a subsequent application for a mitigation inspection or mitigation grant only under certain circumstances;
- Provide that an applicant meeting the requirements for a mitigation inspection may receive an inspection even if the applicant is not eligible for a mitigation grant or the applicant does not apply for such grant;
- Require the homeowner to agree to provide information received from the homeowner's insurer identifying the premium discounts realized by the homeowner due to the mitigation improvements funded through the program;
- Provide that the Department of Financial Services (DFS) is not required to maintain a list of participating contractors, but rather, the homeowner must use a properly licensed contractor for the project and the DFS must verify that the contractor performing the work is licensed;
- Revise the list of grant eligible improvements to specify the inclusion of windows and skylights;
- Require the DFS to prioritize the review and approval of inspection applications and grant applications in the following order:
  - First, applications from low-income homeowners who are at least 60 years old;
  - Second, applications from all other low-income homeowners;
  - Third, applications from moderate-income homeowners who are at least 60 years old;
  - Fourth, applications from all other moderate-income homeowners; and
  - Lastly, all other applications;
- Remove the provision authorizing matching grants to local governments and nonprofit entities;
- Remove the provision authorizing grants to a previously inspected existing structure or on a rebuild;
- Require homeowners to finalize construction and request a final inspection, or request an extension, within one year after grant approval;
- Authorize the DFS to request additional information from the applicant;
- Revise provisions regarding the distribution of the MSFH Program brochure which provides information on the benefits to homeowners of residential hurricane damage mitigation; and
- Reorganize and rephrase certain provisions within the statute to provide better clarity.

The bill appropriates, for the 2024-2025 fiscal year, $200 million in nonrecurring funds from the General Revenue Fund to the DFS to be used for hurricane mitigation grants, hurricane mitigation inspections, and outreach and administrative costs. The bill provides that the DFS may not continue to accept applications or create a waiting list in anticipation of additional funding unless the Legislature expressly provides authority to implement such actions.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 40-0; House 115-0

Committee on Banking and Insurance

HB 7089 — Health Care Expenses

by Health & Human Services Committee and Rep. Grant and others (CS/SB 1640 by Fiscal Policy Committee and Senator Collins)

Consumer Protections Relating to Debt Collection Practices of Hospitals and Ambulatory Surgical Centers

The bill creates several consumer protections relating to the collection of medical debt.

The bill requires hospitals and ambulatory surgical centers (ASCs) to have an internal grievance process for patients to dispute charges.

In regard to the medical debt collection practices of hospitals and ASCs (facilities) medical debt, the bill prohibits a hospital or ASC from engaging in extraordinary collections actions such as certain legal or judicial processes including commencing a civil action, garnishing wages, or placing a lien on property:

- Before the facility makes a reasonable effort to determine whether the individual is eligible for assistance under the facility's financial assistance plan and, if eligible, before the facility makes a decision regarding the patient's application for such financial assistance.
- Before the facility has provided the individual with an itemized statement or bill.
- During an ongoing grievance process or an ongoing appeal of a claim adjudication.
- Before billing any applicable insurer and allowing the insurer to adjudicate a claim.
- For 30 days after notifying the patient, in writing by a traceable delivery method, that a collection action will commence absent additional action by the patient.
- While the individual:
  - Negotiates in good faith the final amount of a bill for services rendered; or
  - Complies with all terms of a payment plant with the facility.

The bill establishes a three-year statute of limitations for actions to collect medical debt, which runs from the date on which the facility refers the medical debt to a third-party for collection. Currently, medical debt is subject to a five-year statute of limitation.

The bill exempts from attachment, garnishment, or other legal process in an action on hospital medical debt:

- A debtor's interest, not to exceed $10,000 in value, in a single motor vehicle. Currently, the exempt interest is $1,000.
- A debtor's interest in personal property, not to exceed $10,000 in value, if the debtor does not claim or receive the benefits of a homestead exemption. Currently, the exempt interest is $1,000.

Price Transparency Provisions Relating to Facilities and Insurers

The bill creates price transparency requirements for hospitals, ASCs, and insurers relating to nonemergency services.

The bill requires a hospital or ASC must post standard charges for specified shoppable services on its website or implement an internet-based price estimator tool that meets federal standards.

The bill requires hospitals and ASCs must provide estimates of anticipated charges for nonemergency services and provide such good faith estimates (GFEs) to the patient's health insurer and the patient. A health insurer, in turn, must prepare an advanced explanation of benefits (AEOB) for the insured patient, within a specified time frame prior to the service being provided, based on the facility's estimate. An individual may request a GFE from a facility or an AEOB from an insurer, and the facility or the insurer must provide the applicable document within three business days after receipt of a request from an individual. These provisions are consistent with existing federal law.

The bill defers implementation of these provisions as follows:

- The changes made in this act relating to shoppable services, do not apply to ASCs until January 1, 2026.
- The changes made by this act to s. 395.301, F.S., relating to the issuance of GFEs by facilities, are not effective until the federal agencies adopt rules to implement the law. The Agency for Health Care Administration must notify the Division of Law Revision upon the promulgation of the final rule.
- The changes made by this is act to s. 627.446, F.S., relating to the AEOBs issued by insurers upon the submission of a GFE by a facility, are not effective until federal rules are adopted relating to the GFE and the AEOBs. The Office of Insurance Regulation must notify the Division of Law Revision upon the promulgation of the final rule pertaining to AEOBs.

Direct Health Care Agreements

The bill expands the health care providers that may participate in a direct health care agreement that is exempt from the insurance code to include a health care provider licensed under ch. 490 (practice of psychology) or ch. 491, F.S., (clinical, counseling, and psychotherapy services).

Transparency and Accountability Requirements of Community-Based Care Lead Agencies

The bill amends laws governing contracts of the Department of Children and Families (DCF) with community-based care lead agencies (CBCs) to increase transparency and accountability related to the administration of and services provided by the CBCs.

The bill revises contractual rights and obligations between DCF and the CBCs. For example, the bill provides that DCF may only extend a contract for a period of one to five years in accordance with s. 287.057, F.S., if the CBC has met performance expectations within the monitoring evaluation. The DCF must set forth minimum training criteria for CBC board members in the

contracts with the CBCs. The CBCs must ensure that board members participate in annual training related to their responsibilities to provide oversight and ensure accountability and transparency for the CBC system of care, and to provide fiduciary oversight to prevent conflicts of interest, promote accountability and transparency, and protect state and federal funding from misuse. The board of directors must discharge their duties in accordance with s. 617.0830, F.S.

The bill establishes the regulatory framework for a CBC's subcontracts and transactions with related parties, revises the CBC subcontract procurement process, and creates contractual remedies to address conflicts of interest, failures to follow procurement law, noncompliance with contractual requirements, and inadequate performance in the provision of child protection and child welfare services. The CBCs must competitively procure all contracts, consistent with the federal simplified acquisition threshold. The CBCs are required to competitively procure all contracts in excess of $35,000 with related parties.

The bill requires board member of CBCs to disclose any known actual or potential conflicts to the DCF. The bill requires a CBC to post a fidelity bond for the board to cover any costs associated with reprocurement and the assessed penalties related to a failure of a board member to disclose a conflict of interest. All DCF contracts with CBCs must contain the following penalty provisions:

- The DCF must impose penalties in the amount of $5,000 per occurrence for each known and potential conflict of interest, which is not disclosed to the DCF.
- If a contract is executed for which a conflict of interest was not disclosed to the DCF before execution of contract, the following penalties apply:
  - A penalty in the amount of $20,000 for a first offense.
  - A penalty in the amount of $30,000 for a second or subsequent offense.
  - The removal of the board member who did not disclose a known conflict of interest.

Further, a contract procured by a CBC board for which a conflict of interest was not disclosed to DCF before execution of the contract must be reprocured. The DCF must recoup from the CBC expenses related to a contract that was executed without disclosure of a conflict of interest.

The bill caps the salary of a CBC administrative employee at 150 percent of the Secretary of DCF's salary, regardless of the number of contracts a CBC may execute with DCF. The bill also requires contracts between DCF and CBCs to delineate the rights and obligations related to the acquisition, transfer, or other disposition of real property and sets minimum standards for those rights and obligations. Effective July 1, 2024, the DCF must approve any sale, transfer, or disposition of real property acquired and held by the CBC using state funds.

The bill repeals the current law related to the allocation of funds to CBCs and directs DCF in collaboration with the CBCs and child welfare providers to develop a new funding methodology for core service funding allocation that at a minimum, must be:

- Actuarially sound;
- Reimbursement based;

- Designed to incentivize efficient and effective CBC operations, prevention, family preservation, and child permanency;
- Scalable to account for regional cost-of-living differences; and
- Consider variable costs for in-home and out-of-home care, prevention services, operational costs, and fixed costs.

The bill also establishes the Future of Child Protection Contracting and Funding Workgroup to study, evaluate, and offer recommendations relating to contracts and general funding of the child welfare system. The DCF must convene the workgroup and is responsible for producing and submitting a report on the workgroup's findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 15, 2025.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.
Vote: Senate 37-0; House 111-0