

## Committee on Banking and Insurance

### **CS/CS/HB 487 — Department of Financial Services**

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Salzman (CS/CS/CS/SB 1158 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).

#### ***Investigations and Prosecutions***

The bill amends provisions regarding investigations and prosecutions within the regulatory authority of the DFS to clarify and expand the powers and duties of the Division of Investigative and Forensic Services (DIFS) relating to investigations including the authority to initiate investigations if it has reason to believe any criminal law of Florida or the United States has or may have been violated. The bill allows the DFS to initiate, not just conduct, investigations under the jurisdiction of the Chief Financial Officer (CFO), including the CFO's role as State Fire Marshal. This section also expands DIFS authority to refer suspected criminal violations for prosecution to include criminal violation of federal law, in addition to state law criminal violations.

#### ***Anti-Fraud Reward Program***

The bill adds violations for which the DFS may pay up to \$25,000 in reward under the Anti-Fraud Reward Program. The list of investigable insurance fraud violations under the Anti-Fraud Reward Program is expanded to include, but is not limited to, nursing home and related health care facilities noncompliance; forgery and counterfeiting public records; racketeering and illegal debts; burning to defraud an insurer; theft, robbery and related crimes; false and fraudulent insurance claims; patient brokering; criminal use of personal identification; and money laundering.

The bill removes the requirement for a conviction in order for the person providing information leading to an arrest of a person committing crimes to receive a reward under the Anti-Fraud Reward Program.

#### ***Deferred Compensation***

The bill adds the State College System to the State Deferred Compensation Program.

#### ***Workers' Compensation***

The bill revises provisions relating to the Workers' Compensation Three Member Panel, which adopts manuals governing maximum reimbursement of medical providers under the workers' compensation system, by eliminating the physician reimbursement manual and instead directing

the DFS to annually publish the physician and nonhospital maximum reimbursement allowances. The bill also ratifies three DFS rules relating to the Florida Workers' Compensation Law. Those rules are titled "Florida Workers' Compensation Health Care Provider Reimbursement Manual," "Health Care Provider Medical Billing and Reporting Responsibilities," and "Insurer Authorization and Medical Bill Review Responsibilities."

### ***Health Care Ministries***

The bill provides that a nonprofit religious organization may not market or sell health plans through agents licensed by the DFS.

### ***Funerals and Cemeteries***

The bill revises definitions relating to the regulation of funeral, cemetery, and consumer services. The bill defines "preneed" to mean any arrangement or method for which the provider of funeral merchandise or services receives any payment in advance for funeral or burial merchandise and services after the death of a contract beneficiary. The term excludes a transportation protection agreement and any payments received on a transportation protection agreement. The bill also defines "transportation protection agreement" to mean an agreement that exclusively provides or arranges for services related to the preparation for the purpose of transportation and subsequent transportation of human remains or cremated remains. The bill expressly states the Florida Insurance Code, as defined in s. 624.01, F.S., does not apply to any transportation protection agreement sold by any licensee under this chapter.

### ***Division of Insurance Agents and Agencies***

The bill makes the following changes regarding licensure of agents and agencies:

- Deletes the application filing and license fee for reinsurance intermediaries.
- Deletes the authority of designated examination centers to take fingerprints of applicants for a license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.
- Provides an insurance agency closure notice requirement provision does not apply to title insurance, life insurance, or annuity contracts.
- Authorizes the DFS to adopt rules establishing specific penalties against licensees for violations of:
  - Section 626.112(7) or (9), F.S., regarding trade names of insurance agencies and adjusting firms;
  - Section 626.6115, F.S., regarding compulsory refusal, suspension or revocation of insurance agency licensure;
  - Section 626.6215, F.S., regarding discretionary refusal, suspension, or revocation of insurance agency licensure;
  - Section 626.7451, F.S., regarding managing general agent contract provisions;
  - Section 626.8695, F.S., regarding designation of primary adjusters at each business location;

- Section 626.8697, F.S., regarding mandatory refusal, suspension, or revocation of an adjusting firm license; and
- Section 626.8698, F.S., regarding disciplinary guidelines for public adjusters and public adjuster apprentices.
- Provides any course related to commercial and residential property coverages, claim adjusting practices, and any other adjuster elective courses approved by the DFS, qualify as elective continuing education for certain insurance representatives.
- Deletes requirements prohibiting limited lines agents from holding a license as an agent for any other or additional kind or class of insurance coverage and creates a limited license for preneed funeral agreement insurance coverage.
- Adds having been found guilty of or having pleaded guilty or nolo contendere to a misdemeanor directly related to the financial services business as grounds for compulsory disciplinary actions taken by the DFS against insurance representatives.
- Adds having had the cancellation of the applicant's, licensee's, or appointee's resident license in a state other than Florida as grounds for discretionary disciplinary actions taken by the DFS against insurance representatives.
- Provides that, contingent upon the provision in CS/CS/CS/SB 418 in the 2023 Regular Session authorizing boat liveries to provide insurance becoming law, that licensed insurance agents must be involved when offering the renter the opportunity to obtain insurance.
- Revises the definitions of the terms "producer" and "reinsurance intermediary manager" in order to change the Reinsurance Intermediary Manager and Reinsurance Intermediary Broker licenses to an appointment.
- Revises the role of reinsurance intermediaries to an appointment instead of a license.
- Requires the DFS to suspend the insurer's or employer's ability to appoint licensees if the insurer fails to pay the exchange of business fee within 21 days after notice by the DFS.
- Authorizes a funeral director, a direct disposer, or an employee of a funeral establishment that holds a preneed license to obtain a limited license to sell only policies of life insurance covering the expense of a prearrangement for funeral services or merchandise.
- Requires the DFS to suspend the authority of an insurer or employer to appoint licensees if the insurer or employer does not pay the fees and taxes due within 21 days after notice by the DFS.

### ***Title Insurance Agents and Agencies***

The bill makes the following revisions related to title insurance agents and agencies:

- Provides the notice requirements relating to notifying policyholders of the agency closure, do not apply to title insurance agents or title insurance agencies.
- Adds grounds for compulsory disciplinary actions taken by the DFS against a title insurance agent or agency to include misappropriation, conversion, or improper withholding of funds received in a fiduciary capacity and held as part of an escrow agreement, real estate sales contract, or as provided on a settlement statement in a real estate transaction and revocation or cancellation of a licensee's resident license in a jurisdiction other Florida.

- Adds grounds for discretionary disciplinary actions taken by the DFS against a title insurance agent or agency for having been the subject of a violation of any federal or state securities or commodities law or having a licensee's resident license in a jurisdiction other than Florida revoked or cancelled.
- Transfers the duties as an escrow agent from the title agent to the title agency.

### ***Adjusters***

The bill makes the following revisions related to insurance adjusters:

- Makes clear that the exemption to the prohibition of taking a thing of value for certain prohibited acts applies to a licensed "and appointed" public insurance adjuster. Section 626.112, F.S., requires each insurance adjuster to be currently licensed by the department and appointed by a licensed adjuster firm.
- Provides a catastrophe or emergency adjuster must adjust claims, losses, or damages under policies or contracts of insurance issued by an authorized insurer or by a licensed independent adjusting firm contracted with an authorized insurer.

### ***Board Member Requirements***

The bill establishes guidelines for board member requirements where the CFO has sole appointment authority, making such board members subject to specified provisions of the Code of Ethics under ch. 112, F.S. The board composition of the Florida Insurance Guaranty Association is revised to require three representatives from domestic insurers selected by the CFO. The bill authorizes the CFO to remove board members of the following entities for misconduct, malfeasance, misfeasance, or neglect of duty:

- The Florida Self-Insurers Guaranty Association.
- The Medical Malpractice Joint Underwriting Association.
- The Florida Insurance Guaranty Association.
- The Florida Life and Healthy Guaranty Association.
- The Florida Health Maintenance Organization Consumer Assistance Plan.
- The Florida Workers' Compensation Insurance Guaranty Association.

### ***Mediation Programs***

The bill revises various insurance-related mediation programs administered by the DFS.

The bill specifies that a property insurance claim is eligible for the DFS property insurance mediation once the insurer makes a claim decision pursuant to the 60-day prompt payment requirements of s. 627.70131, F.S., or elects to re-inspect the property as allowed for under the notice of intent to litigate a property insurance claim requirements of s. 627.70152, F.S., and specifies that the DFS may suspend an insurer's ability to appoint agents if the insurer fails to pay fees related to rescheduled mediation conferences.

The bill authorizes the DFS to contract with a third-party to administer the sinkhole neutral evaluation program.

The bill requires that insurers pay for mediation of motor vehicle mediation claims. If a policyholder fails to appear at mediation, the policyholder is responsible to pay for a rescheduled mediation conference. If the insurer fails to appear, the insurer must pay the policyholder's expenses for attending the conference, pay the mediator an additional fee to reschedule the conference, and a charge to the DFS related to expenses for rescheduling.

### ***Insurer Insolvency – Rehabilitation and Liquidation***

The bill authorizes the DFS, in receivership proceedings, to use the property of the estate of the insolvent insurer to transfer the insurer's book of business to a solvent assuming insurer or insurers and to share records of the insolvent insurer with the prospective assuming insurer. The bill also provides that policies of the insolvent insurer do not have to be cancelled if there is a carrier willing to take on policies of an insolvent company.

### ***State Fire Marshal Direct Support Organization***

The bill creates a direct support organization (DSO) for the State Fire Marshal to be known as the "State Fire Marshal Safety and Training Force," whose purpose is to support the safety and training of firefighters and to recognize exemplary service. The bill provides the DSO must be a non-for-profit corporation incorporated under ch. 617, F.S., and approved by the Department of State; be organized to raise funds; request and receive grants; gifts and bequests of money; conduct program and activities; acquire, receive, hold, invest and administer, in its own name, securities, funds or property; and make grants and expenditures to or for the direct or indirect benefit of the division. The bill provides funds may include the cost of education and training of firefighters, or the recognition of exemplary service of firefighters. Under the bill, the DSO must operate under a written contract with the Division of State Fire Marshal (division). The bill provides for a board of directors; provides requirements for the use of property, annual budgets and reports, an annual audit, and the division's receipt of proceeds; and authorizes moneys received to be held in a depository account. The bill provides a repeal date of October 1, 2028.

### ***Warranty Associations***

The bill makes the following revisions regarding warranty associations:

- Adds grounds for compulsory disciplinary actions against motor vehicle service agreement salespersons and provides for the immediate temporary suspension of a license if the licensee is charged with certain felonies; and authorizes the DFS to adopt rules.
- Adds an additional discretionary ground for refusal, suspension, or revocation of a license or appointment of a motor vehicle service agreement salesperson for failure to report the final disposition of an action taken against the salesperson by a regulatory agency relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty.

- Adds grounds for discretionary disciplinary actions taken against a home warranty association sales representative for having been the subject of a violation of any federal or state securities or commodities law; provides for the immediate temporarily suspension of a license if the licensee is charged with certain felonies; and authorize the DFS to adopt rules.
- Adds grounds for discretionary disciplinary actions against a home warranty association sales representative; requires a sales representative to report any action taken against the sales representative relating to the business of insurance; and authorizes the DFS to adopt rules.
- Provides that specified home solicitation sale requirements, ss. 501.021-501.055, F.S., do not apply to persons or entities licensed and appointed, or their affiliates, which solicit the sale of a service warranty or related service or product in connection with a prearranged appointment at the request of the consumer.
- Revises grounds for compulsory disciplinary actions by the DFS against service warranty association sales representatives; requires the DFS to immediately temporarily suspend a license or appointment under certain circumstances; prohibits a person from transacting insurance business after such suspension; and authorizes the DFS to adopt rules.
- Adds grounds for discretionary disciplinary actions taken against a service warranty association sales representative for having been the subject of a violation of any federal or state securities or commodities law; provides for the immediate temporary suspension of a license if the licensee is charged with certain felonies; and authorizes the DFS to adopt rules.

### ***Bail Bonds***

The bill revises provisions relating to bail bond agents and agencies. The bill provides a definition of “appointment”; provides that a “temporary bail bond agent” means a person licensed before January 1, 2024; and provides that a temporary bail bond agent license expires 18 months after issuance and is no longer valid on or after June 30, 2025.

The bill provides that bail bond agencies must be licensed rather than registered. A person may not control or manage a bail bond agency unless the person has been engaged as a bail bond agent for the preceding 24 months. The bill provides application requirements for bail bond agency licenses; a bail bond agency that holds a current valid registration will have its registration automatically converted to a license on July 1, 2024, and provides s. 112.011, F.S., relating to disqualification from licensing and public employment based on criminal conviction, does not apply to bail bond agencies or to applicants for licensure as bail bond agencies.

The bill provides that a bail bond agent may not sell a bail bond issued by an insurer for which the agent and the agent’s bail bond agency do not hold a current appointment. The bill prohibits the performance of any of the functions of a bail bond agency without a bail bond agency license.

***Florida Disposition of Unclaimed Property Act***

The bill provides that statutory requirements relating to recovery agreements and purchase agreements for claims filed by a claimant's representative do not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.

*Vote: Senate 37-0; House 112-0*