HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 1101 (CS/CS/SB 1620)	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Economic Affairs Committee; Insurance & Banking Subcommittee; Horner (Budget Subcommittee on General Government Appropriations; Banking and Insurance; Richter)	114 **Y's**	0 **N's**
COMPANION BILLS:	CS/CS/SB 1620	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/CS/HB 1101 passed the House on February 29, 2012, and subsequently passed the Senate on March 8, 2012. The bill provides changes for various types of insurance. Issues addressed include:

- insurance agent and adjuster licensure;
- insurance required for salvage motor vehicle dealers;
- travel insurance;
- portable electronics insurance;
- filing of reinsurance statements;
- mediation program for property insurance claims administered by the Department of Financial Services (DFS);
- cancellation of auto insurance;
- interest owed on personal injury protection (PIP) benefits;
- PIP insurer's right to reimbursement related to taxicabs;
- priority of interest claims against an insolvent insurer's estate;
- definition of rebate used in sinkhole repair;
- Citizens Property Insurance Corporation (Citizens);
- alterations of a certificate of insurance;
- corporation not for profit self-insurance funds;
- alien insurers;
- notices of nonrenewal given by surplus lines insurers;
- mandatory health benefits;
- definition of carrier used in The Employee Health Care Access Act; and
- captive insurance.

The bill has no fiscal impact on local government. DFS estimates their cost to implement the bill is approximately $50,000. The fiscal impact on the private sector is varied and is delineated in the Fiscal Analysis.

The bill was approved by the Governor on April 24, 2012, ch. 2012-151, Laws of Florida. Sections 1-7, 9-15, 18, and 37-38 are effective July 1. 2012. Section 8 is effective July 1, 2013, Sections 16-17 and 19-36 are effective upon becoming law.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

The bill contains changes for various types of insurance. Issues addressed include: insurance agent and adjuster licensure, insurance required for salvage motor vehicle dealers, travel insurance, portable electronics insurance, the filing of reinsurance statements, the mediation program for property insurance claims administered by the Department of Financial Services, cancellation of auto insurance, interest owed on personal injury protection (PIP) benefits, PIP insurer's right to reimbursement related to taxicabs, priority of interest claims against an insolvent insurer's estate, Citizens Property Insurance Corporation, alterations of a certificate of insurance, corporation not for profit self-insurance funds, alien insurers, notices of nonrenewal given by surplus lines insurers, mandatory health benefits, the Employee Health Care Access Act, and captive insurance.

Limited Lines Insurance

In general, insurance agents transact insurance on behalf of an insurer or insurers. Agents must be licensed by the Department of Financial Services (DFS or department) to act as an agent for an insurer, and be appointed (i.e., given the authority by an insurance company to transact business on its behalf) by at least one insurer to act as the agent for that particular appointing insurer or insurers.[1]

Limited lines insurance agents are individuals, or in some cases entities, licensed as insurance agents but limited to selling one or more of the following forms of insurance (each requiring a separate license):

- motor vehicle physical damage and mechanical breakdown insurance;
- industrial fire or burglary;
- travel insurance;
- motor vehicle rental insurance;
- credit life or disability insurance;
- credit insurance;
- credit property insurance;
- crop hail and multiple-peril crop insurance;
- in-transit and storage personal property insurance; and
- communications equipment property insurance, communications equipment inland marine insurance, or communication equipment service warranty agreement sales.[2]

A limited lines insurance agent license generally has fewer requirements for licensing than other insurance agents. These licensees must, however, file an application with DFS, be fingerprinted[3] and be appointed by an insurance company. Licensure requirements to sell some limited lines insurance require an agent pass an examination in order to be licensed, others do not.

Travel Insurance Limited Licenses

License Coverage

Current law provides travel insurance covers:

- accident death or dismemberment of a traveler;
- trip cancellation, interruption, or delay;
- loss of or damage to personal effects or travel documents;
- baggage delay;
- emergency medical travel or evacuation of a traveler; or
- medical, surgical, and hospital expenses related to an illness or emergency of a traveler.

[1] s. 626.112, F.S.

[2] s. 626.321, F.S.

[3] Licensees for a limited license as a communications equipment insurance agent do not have to be fingerprinted.

The bill expands the coverage of travel insurance to include event cancellation and damage to travel accommodations.

Policy Term
Under current law, a travel insurance policy can cover no more than 60 days of travel within the policy term, although the policy term may be longer than 60 days. The bill lengthens the travel period that can be covered by a policy from 60 days to 90 days, with a corresponding extension of the allowable policy term.

Eligible Licensees
Generally, current law only allows employees of a common carrier, employees of a transportation ticket agency, timeshare developers, timeshare exchange companies, and sellers of travel regulated under ch. 559, F.S., (e.g., sellers of tour packages and tour-guide services) to sell travel insurance. The bill expands who can be licensed to sell travel insurance to allow full-time salaried employees of general lines agents[4] and business entities that do travel planning to sell travel insurance.

The bill specifies travel insurance license requirements for business entities that do travel planning to ensure each office location of the entity is covered by the license. These requirements are virtually the same as those required for business entities with offices that offer motor vehicles for rent or lease and are eligible to offer motor vehicle rental insurance under a limited license.

License Fees
The bill makes a conforming change to the insurance agent licensing fee statute to require and specify travel insurance licensing fees for offices of a business entity that does travel planning. The change is consistent with the motor vehicle rental insurance licensing fees required for offices of business entities that rent motor vehicles and sell motor vehicle rental insurance. Biennial appointment fees for each office of a business entity doing travel planning is still required, but each office will no longer pay a one-time license application fee.

Adjusters for Portable Electronics Insurance Claims
Portable electronics insurance is not recognized in current law, but a different bill, CS/CS/HB 725, creates this type of insurance and creates a limited license for an agent to sell this type of insurance. According to CS/CS/HB 725, portable electronics insurance covers the loss, theft, mechanical failure, malfunction or damage on portable electronics. Portable electronics is broadly defined by CS/CS/HB 725 to encompass electronic equipment such as cellular phones, pagers, portable computers, GPS units, gaming systems, docking stations, digital cameras and video cameras.

Generally, persons who adjust insurance claims must be licensed as an insurance adjuster.[5] The bill exempts certain employees of licensed insurance agents or licensed insurance adjusters from having to be licensed as an insurance adjuster. Specifically, employees who handle claim information or enter data into a preprogrammed automated claims adjudication system for portable electronic insurance do not have to be licensed as an adjuster. The bill provides parameters for the licensing exemption for these employees.

Furthermore, the bill provides consistency in the licensing of nonresident independent adjusters adjusting portable electronics insurance claims for adjusters residing in the United States and in Canada. Nonresident independent adjusters are recognized by s. 626.8584, F.S., and license qualifications for this type of adjuster are prescribed in s. 626.8734, F.S. Under current law, generally, a nonresident independent adjuster is not a resident of Florida, is a licensed independent adjuster in

[4] A general lines insurance agent is an insurance agent authorized to transact one or more of the following kinds of insurance for commercial or noncommercial purposes: property insurance, casualty insurance, surety insurance, health insurance, or marine insurance.
[5] Part VI, Chapter 626, F.S. There are numerous licenses for adjusters, depending on the nature of the adjuster's employment and resident status.

the adjuster's state of residence,[6] and is self-employed or employed by an independent adjusting firm or other independent adjuster. Thus, adjusters holding a license in a state other than Florida can obtain a nonresident adjuster license in Florida due to Florida's reciprocity with the licensing state (home state). In order to be able to adjust claims in the U.S., adjusters residing in Canada often become licensed in a state in the U.S. and use that license to obtain a license as a nonresident adjusters in another state with a reciprocity agreement with their initial licensing state (or home state). The bill requires this licensing arrangement for adjusters that reside in Canada and adjust portable electronics insurance. To that end, the bill requires Canadian residents to be licensed in a state in the U.S. in order to be licensed as a nonresident independent adjuster in Florida.

Filing of Reinsurance Summary Statements

Reinsurance is insurance bought by insurers to insure their book of business. Reinsurers do not pay policyholder claims. Instead, they reimburse insurers for claims paid by the insurer. Reinsurance effectively increases an insurer's capital and therefore the insurer's capacity to sell more insurance. The reinsurance business is global, with some of the largest reinsurers based in Europe and Bermuda.[7]

Reinsurance is not regulated by the OIR because reinsurers are not licensed by OIR. However, with limited exceptions, reinsurers must be accredited by OIR for insurers to take credit for reinsurance purchased on the insurer's financial statements. Section 624.610, F.S., provides requirements for reinsurer accreditation. Reinsurance rates are also not regulated by OIR and are negotiated by the insurer and reinsurer.

Generally, all insurers formed in Florida buying reinsurance on their book of business must file with the OIR a summary of the reinsurance purchased. The summary is used by OIR, in part, to monitor the solvency of the insurer. The contents of the summary statement are set in s. 627.610(11)(a), F.S. There are, however, three exceptions to current law requiring insurers to file reinsurance summary statements. Insurers with surplus over $100 million, insurers with premiums less than $500,000 during a calendar year, and insurers with less than 1,000 policyholders at the end of a calendar year do not have to file reinsurance summary statements with OIR for the reinsurance the insurer purchases. Current law also specifies an exception to the exception. The exception to the exception requires insurers with less than 1,000 policyholders that have less than $500,000 in premium in a calendar year, but have $250,000 of the $500,000 of premium written in the last quarter of the calendar year, to file reinsurance statements.

The bill rewords and clarifies the exception to the exception. It does not substantively change the exception to the exception or how the OIR applies the exception to the exception. Thus, insurers with less than 1,000 policyholders and less than $500,000 in premium in a calendar year, but with $250,000 of the $500,000 in premium written in the last quarter of the year, will still have to file reinsurance statements with the OIR.

DFS Licensure Examinations in Spanish

DFS licenses many different types of insurance related professionals, including insurance agents and adjusters. Although s. 626.261, F.S., sets forth certain license examination requirements, there is no provision in current law allowing or requiring DFS to give licensure examinations in any language other than English. And, according to DFS, the department does not currently give any license examination in a language other than English.

The bill allows DFS to give licensure examinations in Spanish and requires license applicants requesting an examination in Spanish to pay the full costs related to the development, preparation, administration, grading and evaluation of the examination. The bill requires DFS to consider the

[6] If the adjuster's state of residence does not license independent adjusters, then the adjuster must pass an adjuster examination in Florida in order to be licensed as a nonresident independent adjuster.

[7] http://www2.iii.org/glossary (last viewed December 20, 2011).

percentage of the population who speak Spanish when determining whether it is in the public interest for an examination to be given in Spanish.

Other licensing agencies in Florida are allowed to give licensure examinations in languages other than English. In fact, this bill is similar to s. 455.217(6), F.S., which allows boards within the Department of Business and Professional Regulation (DBPR) that regulate various professions to provide licensure examinations in an applicant's native language, if that language is not English or Spanish. The DBPR examination statute requires license exam applicants wanting an examination translated to a language other than English or Spanish to file a request for a translated examination with the licensing board at least six months before the exam is scheduled to be taken. The Department of Agriculture and Consumer Services (DACS) has an identical provision to the DBPR provision allowing DACS to give examinations in languages other than English and Spanish for land surveyors and mappers license applicants.[8]

Definition of Rebate in Sinkhole Repairs

In 2011, legislation was enacted prohibiting property insurance policyholders from accepting a rebate from any person performing sinkhole repairs and making it insurance fraud for any person performing sinkhole repairs to offer a rebate.[9] The 2011 legislation, however, did not define "rebate" and questions arose after the enactment of the legislation about the definition of "rebate." The bill provides a definition of "rebate" for use in sinkhole repairs.

Mediation of Property Insurance Claims

A property mediation program for hurricane and non-hurricane related property insurance disputes is established under s. 627.7015, F.S. The mediation program is conducted by DFS. The program is not available if the appraisal process set forth in an insurance policy or litigation under the policy has begun. The mediation program is available for personal and commercial residential claims but not to other commercial claims, to private passenger motor vehicle insurance claims, to disputes relating to liability claims in property insurance policies, or to claims under policies issued by the National Flood Insurance Program. Specific mediation procedures and timeframes are set forth in ch. 69J-166.031, F.A.C., for personal residential policies and ch. 69J-166.002, F.A.C., for commercial residential policies.

Four types of property insurance claims under current law are not eligible for the property insurance mediation program. Claims where the insurer suspects fraud are not eligible. Claims for losses that are not covered under the insurance policy are not eligible. Claims that the insurer denies due to a material misrepresentations of fact by the policyholder are not eligible. And, claims with less than $500 in controversy are not eligible. The bill makes a fifth type of property insurance claim not eligible for the mediation program. Property insurance claims based on losses due to hurricanes or windstorms that are filed outside the three year statute of limitations period provided in s. 627.70132, F.S., are not eligible for the mediation program.

The bill limits who can request mediation to policyholders, as first-party claimants, and insurers and makes conforming changes. First-party claimants are those in a direct contractual relationship with their insurance company. Limiting mediation to policyholders and insurers prevents other persons, such as vendors and contractors, who are involved in a claim and are assigned benefits of the claim by the policyholder from requesting mediation of the claim.

Definition of Limited Apportionment Insurance Companies

The bill provides a consistent definition of "limited apportionment company." Limited apportionment company is defined in two places in statute, s. 627.351(2)(b)3., F.S. relating to windstorm risk

[8] s. 472.0131(6), F.S.

[9] s. 627.707(5)(e), F.S.; Ch. 2011-39, L.O.F.

apportionment[10] and s. 627.351(6)(c)13., F.S., relating to the Coastal Account in Citizens Property Insurance Corporation (Citizens).[11] The definitions are the same except for the maximum amount of surplus the insurer must have in order to meet the definition. The definition in the windstorm risk apportionment statute requires $20 million or less in surplus, whereas, the definition in the Citizens' statute requires $25 million or less. The bill changes the amount in the windstorm risk apportionment statute to $25 million or less to make it consistent with the amount in the Citizens' statute.

Salvage Motor Vehicle Dealers – Insurance Requirements

The Department of Highway Safety and Motor Vehicles (DHSMV) is responsible for the licensing and certification of motor vehicle dealers.[12] A salvage motor vehicle dealer is any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.[13] Among the requirements to receive a license, a motor vehicle dealer must provide to the DHSMV evidence that the applicant is insured under a garage liability insurance policy[14] or a general liability insurance policy coupled with a business automobile policy,[15] which shall include, at a minimum, $25,000 combined single-limit liability coverage including bodily injury and property damage protection and $10,000 personal injury protection. Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy.[16]

The bill provides that salvage motor vehicle dealers are exempt from the requirements for garage liability insurance and personal injury protection on those vehicles that cannot be legally operated on roads, highways or streets in Florida.

Cancellation of Motor Vehicle Insurance Policies

Prior to the effective date of a private passenger motor vehicle insurance policy or a binder for such a policy, the insurer or agent must collect from the insured an amount equal to two months' premium. This is not applicable if:

- The insured or member of the insured's family is renewing or replacing a policy or a binder for such policy written by the same insurer or a member of the same insurer group.
- The insurer issues private passenger motor vehicle coverage primarily to active duty or former military personnel or their dependents.
- All policy payments are paid through a payroll deduction plan or an automatic electronic funds transfer payment plan from the policyholder.[17]

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[10] The Florida Windstorm Underwriting Association (FWUA) was formed under the authority of s. 627.351(2), F.S. The FWUA provided wind-only coverage for property in coastal areas that could not procure coverage in the admitted market. The FUWA is no longer active. Its policies were transferred to Citizens in 2002 when Citizens was created. (see s. 627.351(6)(v), F.S.)

[11] Citizens Property Insurance Corporation (Citizens or corporation) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. Citizens writes various types of property insurance coverage for its policyholders. The types of coverage are divided into three separate accounts within the corporation:

1. Personal Lines Account (PLA) – Multi-peril Policies
   Consists of homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies;
2. Commercial Lines Account (CLA) – Multi-peril Policies
   Consists of condominium association, apartment building, homeowner's association policies, and commercial non-residential multi-peril policies on property located outside the Coastal Account area; and
3. Coastal Account – Wind-only and Multi-peril Policies
   Consists of wind-only and multi-peril policies for personal residential, commercial residential, and commercial non-residential issued in limited eligible coastal areas.

[12] s. 320.27, F.S.

[13] s. 320.27(1)(c), F.S.

[14] Garage liability insurance is a form of business insurance generally covering liability for the premises, operations, products, and completed operations within a commercial garage.

[15] A business insurance policy generally covers a company's use of cars, trucks, and other vehicles in the course of carrying out its business.

[16] s. 320.27(3), F.S.

[17] s. 627.7295(7), F.S.

For policies under which the first two months of premium do not have to be paid up front, the insurer may not cancel the new policy or binder during the first 60 days immediately following the effective date of the policy or binder except for nonpayment of premium.

The bill allows cancellation of any private passenger motor vehicle insurance policy, regardless of whether or not the first two months of premiums need to be paid up front, within the first 60 days for non-payment of premium when the check or other method of payment presented is subsequently dishonored. The bill also removes language that limits cancellation of policies within the first 60 days to nonpayment of premium.

Interest Rate for Overdue Payment of Personal Injury Protection Benefits

The bill provides for interest on overdue PIP benefits at the rate for the quarter in which the payment became overdue, rather than the rate for the year in which the payment became overdue. This conforms to a change made last year to s. 55.03, F.S., concerning the rate of interest on judgments generally.

PIP Insurer's Right to Reimbursement

Almost every owner or registrant of a motor vehicle required to be registered and licensed in Florida must maintain security as required by the Florida Motor Vehicle No-Fault Law.[18] The No-Fault Law refers to the insurance benefits it provides as personal injury protection (PIP) benefits. Florida law gives insurers that have paid PIP benefits the right of reimbursement against the owner or insurer of the owner of a commercial motor vehicle *if* the PIP benefits were rendered to (1) an occupant of the commercial vehicle *or* (2) a person struck by the commercial vehicle while not occupying a vehicle.[19] In other words, when an insurer provides a PIP benefit to an occupant of a commercial vehicle or someone struck by a commercial vehicle, the insurer has a right to reimbursement.

An important definition in determining whether the reimbursement provision will apply is the definition of a commercial motor vehicle. A commercial motor vehicle is defined as any motor vehicle which is not a private passenger motor vehicle.[20] A private passenger motor vehicle is defined as any motor vehicle which is a sedan, station wagon, or jeep-type vehicle and, if not used primarily for occupational, professional, or business purposes, a motor vehicle of the pickup, panel, van, camper, or motor home type.[21]

Many disputes have arisen over the right to reimbursement between PIP insurers and the insurers of taxicab owners, with some reaching the courts. In one case, the driver of a taxicab, who was in an accident while driving the taxicab, received PIP benefits; the PIP insurer then sought reimbursement from the taxicab owner's insurer.[22] The Court found that the PIP insurer was entitled to reimbursement.[23] The Court reasoned that taxicabs do not fall into the definition of a private passenger motor vehicle so taxicabs must be commercial motor vehicles.[24] In another case with similar facts, the Court found that the PIP insurer was not entitled to reimbursement.[25] The Court reasoned that the definition of a private passenger motor vehicle clearly included sedans and that the taxicab at question was a sedan.[26]

The insurance policies covering taxicabs do not include PIP benefits. Specifically, the security required by Florida's No-Fault Law does not apply to owners or registrants of motor vehicles used as taxicabs.[27]

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[18] s. 627.733(1)(a), F.S.
[19] s. 627.7405, F.S.
[20] s. 627.732(3)(b), F.S.
[21] s. 627.732(3)(a), F.S.
[22] Continental Cas. Co. v. State Farm Mut. Auto. Ins. Co., 16 Fla. L. Weekly Supp. 702a (Fla. 4th Jud. Cir. Appellate 2008)
[23] *Id*.
[24] *Id*.
[25] Jacksonville Trans. Group v. State Farm Mut. Auto. Ins. Co. (Fla. 4th Jud. Cir. Appellate 2009).
[26] *Id*.
[27] s. 627.733(1)(b), F.S.

Instead, owners or registrants of motor vehicles used as taxicabs are required to maintain security as provided in Section 324.032(1), F.S.[28] Further, the PIP provisions that limit rights to damages, that exempt the responsible party from tort liability, and that limit punitive damages do not apply to owners or registrants of taxicabs.[29] To be consistent with the distinctions already made in statute between taxicabs and Florida's No-Fault Law, the bill amends s. 627.7405, F.S. by specifying that owners or registrants of taxicabs shall be exempt from this section. Thus, an insurer that provides PIP benefits to an occupant of a taxicab, or to someone struck by a taxicab, will not have the right of reimbursement against the owner or registrant of that taxicab.

Citizens Property Insurance Corporation

Background and Financial Status

Citizens Property Insurance Corporation (Citizens or corporation) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. It is not a private insurance company. As of January 31, 2012, Citizens is the largest property insurer in Florida with almost 1.5 million policies extending approximately $514 billion of property coverage to Floridians.[30]

Citizens was created by the Legislature in 2002 by the merger of two existing property insurance associations that provided property insurance to those homeowners and businesses who could not find coverage in the private market. Citizens writes various types of property insurance coverage for its policyholders. The types of coverage are divided into three separate accounts within the corporation:

1. Personal Lines Account (PLA) – Multi-peril Policies[31]
   Consists of homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies;
2. Commercial Lines Account (CLA) – Multi-peril Policies
   Consists of condominium association, apartment building, homeowner's association policies, and commercial non-residential multi-peril policies on property located outside the Coastal Account area; and
3. Coastal Account – Wind-only[32] and Multi-peril Policies
   Consists of wind-only and multi-peril policies for personal residential, commercial residential, and commercial non-residential issued in limited eligible coastal areas.

Current law requires Citizens' rates to be actuarially sound. Citizens' rates are set by the Office of Insurance Regulation (OIR) based on a rate filing made by Citizens setting out actuarially sound rates for the corporation. However, although current law requires Citizens' rates to be actuarially sound, the law also restricts Citizens' rates from increasing more than 10 percent a year per policy until the rates are actuarially sound. Sinkhole coverage, however, is not limited by the 10 percent cap. Once Citizens' rates are actuarially sound, the rate increase percentage is not capped.

Citizens' rates were frozen by law at 2005 levels from January 2007 to December 31, 2009.[33] Citizens implemented an overall statewide average rate increase of 6.2 percent to be implemented in 2012 for homeowners in the PLA and Coastal Account.[34]

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[28] s. 324.032(1), F.S. (a) A person who is either the owner or a lessee required to maintain insurance under s. 627.733(1)(b) and who operates one or more taxicabs, limousines, jitneys, or any other for-hire passenger transportation vehicles may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, but with minimum limits of $125,000/250,000/50,000. (b) A person who is either the owner or a lessee required to maintain insurance under s. 324.021(9)(b) and who operates limousines, jitneys, or any other for-hire passenger vehicles, other than taxicabs, may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.031.

[29] *Id*.

[30] https://www.citizensfla.com/ (last viewed February 18, 2012).

[31] A multi-peril policy is defined as a package policy, such as a homeowners or business insurance policy that provides coverage against several different perils. It also refers to the combination of property and liability coverage in one policy. (http://www2.iii.org/glossary/) Multi-peril property insurance policies include coverage for damage from windstorm and from other perils, such as fire, theft, and liability.

[32] A wind-only policy is a property insurance policy that provides coverage against windstorm damage only. Coverage against non-windstorm events such as fire, theft, and liability are available in a separate policy.

[33] s. 627.351(6)(m)4., F.S.

Citizens' financial resources to pay property insurance claims include both resources typically available to private insurance companies and resources uniquely available to Citizens as a governmental entity with the statutory authority to levy assessments in the event of a deficit in Citizens' financial resources. Like typical private insurance companies, Citizens' financial resources include:

- insurance premiums;
- investment income;
- accumulated surplus;
- reimbursements from the Florida Hurricane Catastrophe Fund due to Citizens' purchase of reinsurance from the Florida Hurricane Catastrophe Fund; and
- reimbursements from private reinsurance companies if Citizens purchases private reinsurance.

Financial resources unique to Citizens include: Citizens Policyholder Surcharges, regular assessments, and emergency assessments. In the event Citizens incurs a deficit (i.e., its obligations to pay claims exceeds its capital plus reinsurance recoveries), it can levy assessments on most of Florida's property and casualty insurance policyholders in a specific sequence set by statute.[35] The three Citizens' accounts calculate deficits and resulting assessment needs independently, so assessments can be levied when any one or more of the three Citizens' accounts has a deficit.

The Citizens' assessment scheme is as follows:

1. Citizens Policyholder Assessments: If Citizens incurs a deficit, Citizens will first levy surcharges on its policyholders of up to 15 percent of premium per account in deficit, for a maximum total of 45 percent.[36] This surcharge is collected over twelve months and is collected at the time a new Citizens' policy is written or an existing Citizens'' policy is renewed.
2. Regular Assessments: Upon the exhaustion of the Citizens Policyholder Assessment for a particular account, Citizens levies a regular assessment of up to 6 percent of premium or 6 percent of the deficit per account, for a maximum total of 18 percent.[37] The regular assessment is levied on virtually all property and casualty policies in the state, but is not levied on Citizens' policies. The assessment is also not levied on workers' compensation, medical malpractice, accident and health, crop or federal flood insurance policies. Mechanically, property casualty insurers with policies subject to the regular assessment "front" the assessment to Citizens and recover it from their policyholders at the issuance of a new policy or at renewal of existing policies. Thus, Citizens will collect funds raised by a regular assessment quickly after the assessment is levied, usually within 30 days after levy.
3. Emergency Assessments: Upon the exhaustion of the Citizens Policyholder Assessment and regular assessment for a particular account, Citizens levies an emergency assessment of up to 10 percent of premium or 10 percent of the deficit per account, for a maximum total of 30 percent.[38] This assessment can be collected for as many years as is necessary to cure a deficit. Emergency assessments are levied on virtually all property and casualty policies in the state, including Citizens' own policies. However, this assessment is not levied on workers' compensation, medical malpractice, accident and health, crop or federal flood insurance policies. Mechanically, property and casualty insurers with policies subject to the emergency assessment collect the assessment from policyholders at the issuance of a new policy or at renewal of existing policies and then remit the assessments periodically to Citizens. Thus, Citizens will not collect funds raised by an emergency assessment immediately after the assessment is levied but will collect funds intermittently throughout the collection period as policies are renewed and new policies written.

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[34] Press Release from the OIR dated September 20, 2011 available at http://www.floir.com/PressReleases/viewmediarelease.aspx?ID=3948 (last viewed February 15, 2012).

[35] s. 627.351(6)(b)3.a.,d., and i., F.S.

[36] s. 627.351(6)(b)3.i., F.S.

[37] s. 627.351(6)(b)3.a. and b., F.S.

[38] s. 627.352(6)(b)3.d., F.S.

Citizens projects the corporation will have over $5.7 billion in surplus to pay claims during the 2011 hurricane season.[39] In addition, Citizens could be reimbursed another $6.5 billion for claims paid by the Florida Hurricane Catastrophe Fund. Citizens purchased private reinsurance for the Coastal Account that would reimburse the corporation up to $575 million for claims paid in this Account. Thus, the maximum amount Citizens has to pay claims in all accounts for the 2011 hurricane season is approximately $12.775 billion.[40]

As of January 31, 2012, Citizens' total exposure is almost $514 billion. Citizens estimates the 1-in-100 year hurricane would cost over $23.2 billion.[41] The $10.4 billion difference between Citizens' resources to pay claims ($12.775 billion) and its 1-in-100 year exposure ($23.2 billion) would be covered by assessments levied by Citizens on its own policyholders and on policyholders of most property and casualty insurance.

Replacement Cost Valuation

Section 627.7011(1), F.S., requires property insurers to offer homeowners a homeowner's insurance policy providing dwelling losses will be adjusted on the basis of replacement costs, rather than actual cash value. Section 627.7011(3), F.S., prescribes how insurers pay losses on policies insured on the basis of replacement costs.

Recently, the method Citizens uses to estimate replacement costs has been questioned by homeowners. In November 2011, Citizens implemented a policy accepting only replacement costs generated by 360 Value, property valuation software that provides component-based replacement cost estimates for residential property. Homeowners have alleged 360 Value is generating inflated replacement costs. Further, homeowners allege Citizens is using the increased replacement cost estimates by 360 Value in order to generate premium increases on the policy in excess of the rate increase cap. Under current law, Citizens is not allowed to raise rates over 10 percent per policy per year, excluding coverage changes. Changes to the amount of replacement costs is a coverage change, so is not subject to the 10 percent rate increase cap. In February 2012, suit was filed in Pasco County Circuit Court alleging Citizens artificially inflated replacement costs to increase insurance premiums and requesting a refund for affected homeowners.[42]

In response to concerns raised by homeowners, in January 2012, Citizens reviewed its policy regarding how replacement costs were to be calculated and implemented a new policy accepting a myriad of valuation methods. According to the new policy, Citizens will consider the following reconstruction based options to determine replacement cost valuation:[43]

- Replacement (reconstruction) cost estimates generated by 360 Value, Marshall & Swift/Boeckh (MSB), or e2Value;[44]
- An insurance reconstruction cost valuation prepared by a licensed appraiser which is specifically formulated to establish the insurance reconstructions costs, rather than market value;
- Reconstruction cost estimates prepared by licensed general contractors, architects, or engineers which include a contract price for reconstruction cost and an itemized list of the home's features; and

[39] Data as of July 13, 2011. Information on file with the Insurance & Banking Subcommittee.

[40] Although Citizens has another $3.82 billion in pre-event bonding for the Coastal Account that would be available to pay claims, this bonding would have to be repaid through assessments, so is not included in the calculations. If this amount were included, Citizens would have $16.5 billion to pay claims during the 2011 hurricane season.

[41] A 1-in-100 year hurricane has a 1% probability of occurring. Information obtained from Citizens' presentation to the Financial Services Commission dated November 1, 2011.

[42] http://www.palmbeachpost.com/storm/lawsuit-says-citizens-insurance-is-unfairly-inflating-premiums-2156982.html (last viewed February 18, 2012). See J. Freitus v. Citizens Property, Case Number 51-2012-CA-000799-XXXX-WS , available at http://www.pascoclerk.com/index.asp (last viewed February 18, 2012).

[43] https://www.citizensfla.com/about/pressreleases.cfm?show=text&link=/shared/press/articles/new/01_20_2012.cfm

[44] 360 Value, MSB, or e2Value are proprietary component-based replacement cost estimators.

- A Property Inspection Report dated within the past 12 months ordered by another property insurance company that includes a detailed reconstruction cost estimate.

The bill requires Citizens to accept the following methods of replacement cost valuations and requires Citizens to accept the lowest valuation as long as that valuation was done within the 12 months prior to the application for new coverage or coverage renewal date:

- A replacement cost valuation generated by a valuation software program designed to establish insurance replacement costs and which includes an itemized calculation of the costs;
- A replacement cost valuation prepared by a licensed real estate appraiser which includes an itemized calculation of the costs; or
- A replacement cost valuation prepared by a licensed contractor or engineer which includes an itemized calculation of the costs.

Mandatory Offer of Actual Cash Value Policy

An HO-3 policy is a multi-peril policy providing dwelling coverage for all perils unless the peril is specifically excluded in the policy. The policy pays replacement costs for the insured dwelling. Personal property (i.e., contents) is also covered in an HO-3 if personal property is damaged by 16 named perils, rather than all perils. Citizens' HO-3 policy is similar to the HO-3 policy offered by property insurers in the private market. Conversely, an HO-8 policy is a basic peril policy (i.e., named peril) sold on single family owner occupied dwellings and includes content coverage. Citizens does not currently offer HO-8 policies.[45] Current law requires Citizens to adopt an HO-8 policy or a dwelling fire policy form to offer homeowners and Citizens offers dwelling fire policies instead of HO-8s.

Some of the major difference between an HO-8 and HO-3 policy are:

- An HO-8 policy only insures against damage from the 10 named perils in the policy, one of which is hurricane, whereas a HO-3 policy covers all perils, including hurricane, unless excluded in the policy,
- An HO-8 policy pays the homeowner actual cash value in the event the dwelling is damaged, but replacement cost is paid under a HO-3, and
- Law and ordinance coverage is not included in an HO-8 policy, whereas 10 percent of the dwelling policy limit is provided to the homeowner for law and ordinance coverage with a HO-3 policy.

The bill requires Citizens to offer an HO-8 policy to its policyholders starting January 1, 2013. This policy must pay for dwelling repair using common construction materials and methods, rather than replacement cost.

Depopulation of Citizens by Surplus Lines Insurers

Under current law, surplus lines insurers are not allowed to participate in the Citizens' depopulation program because the program is limited to insurers licensed in Florida and surplus lines insurers are not licensed in Florida. Generally, depopulation is a program where insurers choose to take policies out of Citizens to insure them instead, with insurance agents and homeowners given the ability to opt out of the removal. CS/CS/HB 245, proposed during the 2012 Legislative Session, changes current law to allow surplus lines insurers meeting specified financial criteria to take policies out of Citizens through depopulation. CS/CS/HB 245 does not require a Citizens' policyholder offered insurance by a surplus lines insurer to accept the insurance offered; the policyholder can remain in Citizens.

In order for a surplus lines insurer to qualify to participate in the Citizens' depopulation program, CS/CS/HB 245 requires the insurer maintain an A.M. Best Financial Strength Rating of A- or better. CS/CS/HB 245 also provides a myriad of other qualifications a surplus lines insurer must meet in order to participate in the depopulation program. This bill allows surplus lines insurers to also have a

[45] Citizens does not have an HO-8 policy form approved by the OIR. Citizens does, however, offer dwelling policies which generally provide coverage for the dwelling and contents on a named perils basis.

Demotech Financial Stability Rating[46] of A or better in order to participate in the depopulation program. This allowance, however, only takes effect if CS/CS/HB 245 or similar legislation is adopted in the 2012 Session or an extension of that Session and becomes law. Neither CS/CS/HB 245 nor similar legislation was enacted in the 2012 Session; thus the change to the depopulation of Citizens by surplus lines insurers provided in the bill will not take effect.

Altered Certificate of Insurance

The bill codifies an Informational Memorandum issued by the OIR in 2003 relating to altered certificates of insurance. According to the Memorandum, "distribution of a certificate of insurance which has been modified without authorization and which purports to alter the provisions of an underlying policy, misrepresents the conditions or terms of the insurance policy" which is a violation of the unfair trade practices act.[47] The person or entity violating the unfair trade practices act is subject to license discipline and administrative fines. The bill codifies the Memorandum by making altering a property and casualty certificate of insurance after the certificate is issued an unfair trade practices violation.

Payment of Interest Claims for Insurers In Receivership

Current law (s. 631.271, F.S.) prioritizes payment of claims from an insolvent insurer's estate into ten classes (Classes 1-10). Class 1 claims are all of the receiver's costs and expenses of administration of the insurer's estate and are paid first. Class 10 claims are claims of the insurer's shareholders or other owners and are paid last. Current law does not provide for payment of interest on allowed claims against the insolvent insurer's estate if there are funds available in the estate and the bill provides authorization for this payment. The bill also specifies the priority of this payment. The bill makes payment of interest on allowed claims Class 10 claims and moves the current Class 10 claims to Class 11 claims. Accordingly, if there are funds available in the insolvent insurer's estate after claims in Classes 1-9 are paid, then interest on the allowed claims will be paid, and the payment of claims of shareholders or other owners of the insolvent insurer will be paid last.

Notice of Nonrenewal Given by Surplus Lines Insurers

Surplus lines insurance refers to a category of insurance for which there is no market available through standard insurance carriers in the admitted market (insurance companies licensed to transact insurance in Florida). There are three basic categories of surplus lines risks:

1. specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
2. niche risks for which admitted carriers do not have a filed policy form or rate; and
3. capacity risks which are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not "authorized" insurers as defined in the Florida Insurance Code and thus do not obtain a certificate of authority from the Office of Insurance Regulation (OIR) to transact insurance in Florida.[48] Rather, surplus lines insurers are "unauthorized" or "nonadmitted" insurers, but are eligible to transact surplus lines insurance under the surplus lines law as "eligible surplus insurers".[49]

For most types of insurance sold in the surplus lines market, before an insurance agent can place insurance in the surplus lines market, the insurance agent must make a diligent effort to procure the

[46] A Financial Stability Rating by Demotech is Demotech's opinion as to the relative ability of an insurer to survive a downturn in general economic conditions as well as a downturn in the underwriting cycle and thus, is an indicator of the financial stability of the insurer. Demotech is a financial analysis firm that has provided consulting services and Financial Stability Ratings for property and casualty insurers and title underwriters since 1985. (see http://www.demotech.com/ (last viewed February 22, 2012)).

[47] Informational Memorandum OIR-03-003M, issued February 21, 2003 by the Office of Insurance Regulation available at http://www.floir.com/index.aspx (last viewed February 18, 2012).

[48] s. 624.09(1), F.S., defines "authorized" insurer.

[49] s. 624.09(2), F.S. defines "unauthorized" insurer, s. 626.914(2), F.S., defines "eligible surplus lines insurer," and s. 626.918, F.S., provides eligibility for surplus lines insurers.

desired coverage from admitted insurers.[50] Section 626.914, F.S. defines a diligent effort as seeking and being denied coverage from at least three authorized insurers in the admitted market unless the cost to replace the property insured is $1 million or more. In that case, diligent effort is seeking and being denied coverage from at least one authorized insurer in the admitted market.

Furthermore, for most types of insurance sold in the surplus lines market, the premium rate for policies written by a surplus lines insurer must be higher than the rate used by a majority of insurers in the admitted market for the same coverage on a similar risk.[51]

Current law requires surplus lines insurers to give policyholders 45-days written notice if their property, casualty, surety, or marine insurance policy is not going to be renewed or is going to be cancelled or terminated by the surplus lines insurer. The bill requires this notice to only the first named insured/policyholder, rather than all named insureds/policyholders. The bill also specifically provides an exception to the 45-day notice if the surplus lines insurer manifests its willingness to renew the policy and the offer to renew is not rescinded prior to the policy expiration or if the surplus lines cancels the policy because the policyholder did not pay the policy's premium.

Mandated Health Benefits

A "mandate" is a legal requirement that an insurance company or health plan cover, or offer coverage for, specific benefits, services by particular health care providers, or specific populations of individuals.[52] Consumers can experience a disparity in application, since self-funded plans may be exempt. There can be vast differences between the cost impacts of various mandates. Florida currently has a significant number of mandates, however all are not applicable to every plan or individual.[53, 54] In some cases, the benefit may be gender or age-specific, such as mammograms.[55, 56] Some provide for guaranteed access to certain types of providers, such as acupuncturists.[57] There are policies which mandate that coverage include specific categories of dependents and may contain time or age limits.[58] For those health benefits referred to in ss. 627.6401-627.64193, F.S., some exceptions already exist. Coverage for osteoporosis screening, diagnosis, treatment, and management does not apply to specified-accident, specified-disease, hospital-indemnity, Medicare supplement, or long-term-care health insurance policies or to the state employee health insurance program.[59] Likewise, coverage for surgical procedures and devices incident to mastectomy does not apply to disability income, specified disease other than cancer, or hospital indemnity policies.[60] Unless specified in law, health benefit mandates contained in ch. 627, F.S., do not apply to a Health Maintenance Organization.

The bill clarifies the types of insurance coverage to which health insurance benefit mandates apply and under what circumstances. Furthermore, it specifies that any mandated treatments, health coverages, or health benefits enacted on or after July 1, 2012, will only apply to those types of health benefit plans, unless the Legislature specifically indicates otherwise.

Corporation Not For Profit Self Insurance Funds

[50] s. 626.916(1)(a), F.S.
[51] s. 626.916(1)(b), F.S.
[52] http://www.ncsl.org/default.aspx?tabid=14463 (Last visited March 12, 2012).
[53] http://www.myfloridacfo.com/consumers/insuranceLibrary {See Health Insurance Information, Health Maintenance Organization (HMO) Insurance Information, General HMO (Individual and Group) Information, Mandated Health Insurance and HMO Benefits} (Last visited March 12, 2012).
[54] http://www.myfloridacfo.com/consumers/InsuranceLibrary/Insurance/L_and_H/Health_Care/HIPAA/HIPAA_-_Specific_Benefit_Requirements.htm (Last visited March 12, 2012).
[55] s. 627.6418, F.S.
[56] s. 641.31095, F.S.
[57] s. 627.6403, F.S.
[58] s. 627.6415, F.S.
[59] s. 627.6409, F.S.
[60] s. 627.6417, F.S.

Current law permits corporations not for profit to jointly form a self-insurance fund for the purpose of pooling only property and casualty risks.[61] This enables members of the self-insurance fund to pool and spread their property and casualty risk. The self-insurance fund must:

- have annual premium in excess of $5,000,000,
- restrict membership to those corporations not for profit receiving at least 75% of their funding from government sources,
- use a qualified actuary to determine rates and establish reserve requirements, and
- maintain a continuing program of excess insurance coverage and reserve evaluation.

The ability to pool and spread risks enables the members of the self-insurance fund to benefit from lower insurance premiums as a group than they would be eligible for individually.

Under current law, the Florida Insurance Trust (FIT) was formed in 2007, and presently has a membership of over 100 social service companies.[62] The FIT already provides for the purchase property and casualty insurance.

The bill allows self-insurance funds pooling property and casualty risk to obtain the required excess coverage from surplus lines insurers or reinsurers, rather than only authorized insurers. The bill also allows corporation not-for-profit self insurance funds to purchase health, accident or hospitalization insurance for its members. The bill provides parameters for the funds purchasing health, accident, or hospitalization insurance, such as requiring insurance purchased by the fund to be purchased from insurance companies participating in the Florida Life and Health Insurance Guaranty Association.[63, 64]

Employee Health Care Access Act

Under Internal Revenue Code Section 501(c)(9), a voluntary employees' benefit association (VEBA) is an organization organized to pay life, sick, accident, or similar benefits to members or their dependents, or designated beneficiaries. It must:

- be a voluntary association of employees, and
- provide for payment of life, sick, accident or other similar benefits to members or their dependents or designated beneficiaries.

Membership must consist of individuals who are employees who have an employment-related common bond. The organization may not benefit of any private individual or shareholder other than through the payment of benefits.[65]

By law, a group of individuals may be insured under a policy issued to an association, if the association has a constitution and bylaws.[66] It must be comprised of at least 25 individual members. The association must have been organized and maintained for a period of one year for purposes other than that of obtaining insurance.

The Employee Health Care Access Act (Act) was created to promote the availability of health insurance coverage to small employers.[67] By definition, a small employer must have at least one, but no more than 50, employees.[68] Under the Act, small employers can be rated, for insurance purposes, based upon a statewide pool of small groups.

[61] s. 624.4625, F.S.
[62] http://www.floridainsurancetrust.com (last viewed on March 12, 2012).
[63] s. 631.715, F.S.
[64] http://www.flahiga.org (last viewed on March 12, 2012).
[65] http://www.irs.gov/charities/nonprofits/article/0,,id=154610,00.html (Last visited on March 12, 2012).
[66] Section 627.654, F.S.
[67] s. 627.6699(2), F.S.
[68] s. 627.6699(3)(v), F.S.

The Act defines "carrier" to mean a person who provides health benefit plans in Florida, including an authorized insurer, a health maintenance organization, a multiple-employer welfare arrangement[69] (MEWA), or any other person providing a health benefit plan that is subject to insurance regulation in this state. It provides an exception to the definition for a MEWA operating solely for the benefit of the members or the members and the employees of such members as long as the MEWA was in existence on January 1, 1992.

The bill expands the exception to the definition of "carrier", as it pertains to the Act, to specify that the exception applies to a VEBA and insurers or health maintenance organizations insuring members or members and employees of a MEWA or VEBA, as long as the MEWA or VEBA was in existence on January 1, 1992.

Captive Insurance

Background on Captive Insurance

Captive insurance is a form of self-insurance where an insurer is created and wholly owned by one or more non-insurers to provide owners with coverage.[70] Unlike traditional self-insurance, the owner does not retain risk but transfers risk; the insured pay premiums to the captive insurer in exchange for the coverage of a specific risk.[71] Companies generally pursue this alternative risk transfer arrangement when commercial insurance becomes unavailable or reaches excessive costs.[72]

Captives may take many formations, often being divided into pure captives and group captives. Each formation may vary in allowable corporate structure, capital and surplus, underwritten risks, and number of owners. Most captive insurance companies are formed as pure captives,[73] meaning that the captive is a wholly-owned subsidiary that insures the risks of its parents and affiliates.[74] Group captives typically include association captives, industrial captives, risk retention groups, and reciprocals; each is owned by and insures a group.[75]

Branch captives and rent-a-captives are unique among the industry. A branch captive is essentially the extended arm of a pure captive from a separate domicile. Instead of forming a new pure captive, the branch captive remains within the same corporation.[76] Rent-a-captives allow companies unwilling or unable to meet the capital and surplus requirements on their own to use an outside entity's capital, surplus, and services for a rental fee.[77] Rent-a-captives today are commonly formed as segregated or protected cell captives, which organize legal barriers among its renters' assets.[78]

Forming a captive insurance company may provide a number of advantages including:

- *Tailored insurance policy*.[79] A captive insurer may be able to create overall savings and have more claims control through coverage and policy provisions that are unique to the individual business being insured and its risk profile.

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[69] A multiple employer welfare arrangement is an employee welfare benefit plan, or other arrangement which is established or maintained for the purpose of offering or providing benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries.

[70] http://www2.iii.org/glossary/c/ (last viewed September 19, 2011).
[71] http://www.iii.org/issue_updates/captives-and-other-risk-financing-options.html (last viewed October 7, 2011).
[72] *Id*.
[73] Theriault, Patrick. *Captive Insurance Companies* (2008). Page 9. Retrieved October 7, 2011.
[74] http://hawaiicaptives.com/captive_basics/faqs.html (last viewed October 7, 2011).
[75] http://www.captive.utah.gov/rrg.html (last viewed October 7, 2011). See also: Theriault, Patrick. *Captive Insurance Companies* (2008). Page 9.
[76] Theriault, Patrick. *Captive Insurance Companies* (2008). Page 9. Retrieved October 7, 2011.
[77] http://www.iii.org/issue_updates/captives-and-other-risk-financing-options.html (last viewed October 13, 2011).
[78] http://captive.com/newsstand/articles/GlosAlt.html (last viewed October 13, 2011).
[79] http://www.vermontcaptive.com/captive-basics/why-captive.html (last viewed October 14, 2011). See also: http://www.dccaptives.org/i4a/pages/index.cfm?pageid=3382; http://captive.insurance.ky.gov/CapHome.aspx; Captive Insurance Basics: http://www.sccia.org/displaycommon.cfm?an=3

- *Reduced premiums*.[80] Commercial insurers' costs include amounts to cover the insurers' profit margin and overheads, such as advertising and commissions. A captive insurer would not need to factor these elements into the premium it charges.
- *Cohesion of interest*. Because the control of the insured and the insurer would reside in a single entity, there could be a reduction in some of the areas of potential disagreement over claim verification, investigation and valuation.
- *Access to Reinsurance*. Captive insurance companies acquire direct access to wholesale reinsurance markets, thus evading related extra costs commercial carriers may include.[81]
- *Tax Deductions*. Premiums paid to the captive insurer may be deductable expenses for Federal income tax purposes.[82] Income tax against the captive insurer will vary depending on the coverage and amount, though certain companies may qualify for a full exemption.[83]

Some disadvantages to forming a captive insurance company may include:

- *Regulations*.[84] Companies planning to form a captive insurance company should expect heightened regulations compared to other available forms of self insurance.
- *Long-term*.[85] Benefits are not realized immediately. Formation is a long-term investment with elevated risk, and companies' commitment to the captive cannot be as flexible as with commercial policies.
- *Administrative Costs.*[86] Forming a captive may require extra personnel and management as well as time away from the parent company or companies. Administering a possible acquisition or merger may also become more complicated when a captive is involved.

Captive Insurance Domiciles

Early on, captive insurance companies were only available offshore. Most United States (U.S.) companies created their captive insurance company through Bermuda or the Cayman Islands. Although these and other offshore domiciles remain popular, the U.S. has become home to over 30 captive domiciles, including the District of Columbia (D.C.). A few U.S. captive domiciles, such as Florida, are considered inactive in the captive industry.[87] Most domiciles remain active, with numbers of captives ranging from one to several hundred.[88] The states with the most captive insurance companies are Vermont, Utah, Hawaii, South Carolina, and D.C., representing about 67 percent of captive insurance companies domiciled in the U.S.[89, 90]

Florida captive insurance legislation became effective in 1982. Florida captive insurance is regulated by the Office of Insurance Regulation (OIR) under Part V of ch. 628, F.S. That Part defines a captive insurer to be "a domestic insurer established under Part I[91] to insure the risks of a specific corporation or group of corporations under common ownership owned by the corporation or corporations from which it accepts risk under a contract of insurance."[92]

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[80] *Id.*
[81] *Id.*
[82] 26 U.S.C. 162(a)
[83] 26 U.S.C. 501(c)(15)
[84] http://captive.insurance.ky.gov/Faq.aspx (last viewed October 17, 2011).
[85] Captive Insurance Basics: http://www.sccia.org/displaycommon.cfm?an=3 (last viewed October 17, 2011).
[86] http://www.captive.com/service/SCG/ProsAndCons.html (last viewed October 19, 2011).
[87] Meaning that legislation allows captive insurance companies, but, because regulations have not kept up to date or for various other reasons, none exist in the domicile. No captive insurance companies exist in Florida even though captives may be created under Chapter 628, Part V, F.S.
[88] In 2010, Maine reportedly had 1 captive, while Vermont had 572; fourteen states had 10 or more captive insurance companies. http://www.iii.org/issue_updates/captives-and-other-risk-financing-options.html (last viewed November 2, 2011). Vermont's current website shows that Vermont has over 900 captives. http://www.vermontcaptive.com/about-us.html (last viewed November 9, 2011).
[89] http://www.iii.org/issue_updates/captives-and-other-risk-financing-options.html (last viewed November 2, 2011).
[90] Most states set forth similar criteria for captives to be domiciled in their state – i.e., capital and surplus requirements, reporting requirements, requirement to hold meetings in the state, etc. Many states set themselves apart by promoting their supportive infrastructure (captive managing firms, lawyers, auditors, etc., knowledgeable of captive insurance transactions) and working relationship with the industry. Vermont, for instance, emphasizes the number of its regulators working solely with captive insurance.
[91] Part I of ch. 628, F.S., is entitled "STOCK AND MUTUAL INSURERS: ORGANIZATION AND CORPORATE PROCEDURES."
[92] s. 628.901, F.S.

Effect of the Bill

Definitions

Unlike current law, the bill provides a definition section and includes fifteen definitions. The bill changes the term "captive insurer" to "captive insurance company" and redefines said term to mean a domestic insurer established under Part V,[93] including pure captive insurance companies, special purpose captive insurance companies, and industrial insured captive insurance companies. These captive formations are all included in the definitions section. The bill retains the definition of an industrial insured and an industrial insured captive insurance company.[94]

Formation

The statute only provides for the formation of pure captives[95] and industrial captives,[96] with more explicit qualifications and criteria for the latter. The bill expands the possible captive formations to include pure captives, special purpose captives, industrial insured captives, and captive reinsurance companies.

Incorporation

Currently, before receiving authority to insure in Florida, insurers are required to incorporate as stock insurers,[97] mutual insurers,[98] or reciprocal insurers.[99, 100] The Florida Insurance Code, however, places captive insurance regulation under ch. 628, F.S., titled "Stock and Mutual Insurers; Holding Companies," seemingly excluding the incorporation of captives as reciprocal insurers. Further, no provision within the captive insurance law explicitly references incorporation options or requirements.

Like current law, the bill limits captive insurance companies' corporate structure to stock and mutual insurers. Unlike current law, however, the bill creates provisions specifying the corporate arrangement allowable for different captive formations. For instance: pure captives must incorporate as stock insurers or as public benefit, mutual benefit, or religious nonprofit corporations;[101] industrial insured captives must incorporate as either stock insurers or mutual insurers; and captive reinsurance companies must incorporate as stock insurers.

The bill also requires the following of captive insurance and reinsurance companies:

- The captive must have at least three incorporators, of which, at least two must be Florida residents.
- At least one member of the captive's board of directors must be a Florida resident.
- With stock insurers, the capital stock must be issued at par value of not less than $1 or more than $100 per share.
- The articles of incorporation must be provided in triplicate with the office before being transmitted to the Secretary of State.
- Florida Corporate and Not for Profit Corporate law apply, including fees, unless it conflicts with any provision in the bill.

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[93] Part V of Chapter 628 is titled "CAPTIVE INSURERS."

[94] The structure of the definition of "industrial insured captive insurance company" has been modified, but the wording is essentially the same as current law.

[95] A captive that insures the risks of its parent and affiliated companies, by contemporary terms, is referred to as a "pure captive." Current law does not explicitly refer to the formation of a "pure" captive; however, it only authorizes, other than industrial insured captive insurers, captive insurers that insure the risks of its parent and affiliated companies. s. 628.905(2), F.S.

[96] s. 628.903, F.S.

[97] A "stock insurer" is an incorporated insurer with its capital divided into shares and owned by its stockholders. s. 628.021, F.S.

[98] A "mutual insurer" is an incorporated insurer without permanent capital stock, the governing body of which is elected in accordance with [Chapter 628, Part I]. s. 628.031, F.S.

[99] A "reciprocal insurer" means an unincorporated aggregation of subscribers operating individually and collectively through an attorney in fact to provide reciprocal insurance among themselves. s. 629.021, F.S.

[100] s. 624.404, F.S.

[101] Public benefit, mutual benefit, and religious nonprofit must adhere to the Florida Not for Profit Corporation Act.

Coverage

Under current law, captives may apply to OIR to provide commercial property, commercial casualty, and commercial marine insurance coverage, but not workers' compensation or employer's liability insurance.[102] Also, an industrial insured captive insurer may provide workers compensation and employer's liability insurance only in excess of at least $25 million in the annual aggregate.[103] The bill does not make this distinction between the formation of the captive and the allowable coverage. The bill allows captives to apply to OIR for all insurance authorized in Florida, except for workers' compensation and employer's liability, life, health insurance, personal motor vehicle insurance, and personal residential property insurance. With a captive reinsurance company, however, the bill distinctly allows it to apply to write reinsurance covering property and casualty insurance or reinsurance contracts.[104]

Capital and Surplus

Current law requires industrial insured captive insurers to maintain unimpaired capital and surplus of at least $20 million before it can be licensed.[105] Pure captive licensure requires unimpaired paid-in capital of at least $500,000 and surplus of at least $250,000.[106] The bill substantially reduces the capital and surplus requirements for industrial insured captives and pure captives, requiring a combined capital and surplus of $500,000 for industrial insured captives[107] and $250,000 for pure captives. The bill also specifies capital and surplus requirements for the other available captive formations. Note, however, that the bill allows OIR to decide the capital and surplus requirements for special purpose captive insurance companies.[108] The following chart exemplifies the bill's capital and surplus requirements according to formation.

Captive Formation	Capital	Surplus	Total
Pure Captive	$100,000	$150,000	$250,000
Industrial Captive - stock	$200,000	$300,000	$500,000
Industrial Captive - mutual	N/A	$500,000	$500,000
Special Purpose Captive	Capital and surplus to be determined by OIR.		
Captive Reinsurance Company	Capital *or* surplus not less than the greater of $300 million or 10% of reserves.		

The bill also allows the office to require additional capital – but not surplus – for captive insurance companies after considering the type, volume and nature of the insurance business transacted. However, OIR may require additional capital *or* surplus for captive *reinsurance* companies after the same considerations.

Finally, the bill requires captive insurance and reinsurance companies to obtain approval from OIR before they can pay out dividends[109] of excess capital or surplus.

Licensure

Current captive law includes Chapter 628 of the Florida Insurance Code, which contains the requirements for stock and mutual insurers to apply for a permit[110] and the associated fees.[111] The bill

[102] s. 628.905(1), F.S.
[103] s. 628.905(6), F.S.
[104] The bill is also clear that a captive reinsurance company may not directly insure risks.
[105] s. 628.903(2)(c), F.S.
[106] s. 628.907, F.S.
[107] This requirement applies to industrial insured captives incorporated as *stock* corporations, as opposed to industrial insured captives incorporated as *mutual* corporations, which do not have a capital requirement.
[108] OIR must take into account the company's business plan, feasibility study, and pro forma financial statements and projections, including the nature of risks to be insured.
[109] Or any other form of distribution.
[110] s. 628.051, F.S. Application for permit to form insurer.
[111] s. 624.501, F.S. Filing, license, appointment, and miscellaneous fees.

also includes Chapter 628,[112] but it creates additional filing requirements specific to captive insurance and reinsurance companies. If a conflict arises between the two, the specific provisions within the bill will govern.

The bill specifically requires the captive insurer or reinsurer to file with OIR the following:

- a certified copy of its articles of incorporation and bylaws;
- a statement of its financial condition under oath by its president and secretary;
- evidence of the amount and liquidity of the proposed captive's assets relative to the risks to be assumed;
- evidence of adequate expertise, experience, and character of the person(s) who will manage the company;
- evidence of the overall soundness of the company's plan of operation;
- evidence of adequate loss prevention programs of the company's parent, member organizations, or industrial insureds (note: this is not an explicit requirement for captive reinsurance companies); and
- any other factors relevant to OIR in ascertaining whether the company will be able to meet its policy obligations.

Further, applicants' officers and directors are subject to background investigations and must submit biographical affidavits and fingerprint cards. OIR may deny, suspend, or revoke authority to insure or reinsure:

- When an officer or director of an applicant was previously the officer or director of an insolvent business. [113, 114]
- When an officer, director, stockholder of 10 percent or more of securities, or incorporator has been found guilty or pleaded guilty or nolo contendere to any felony or crime of moral turpitude punishable by imprisonment of 1 year or more. Existing captives with a person falling under this provision must immediately remove this person or be subject to license revocation or suspension.

After meeting the filing requirements, the captive needs to obtain from OIR a license to insure or reinsure in Florida and do the following:

- hold at least one board of directors' meeting each year in Florida;
- maintain its principal place of business in Florida; and
- appoint a resident registered agent to act on its behalf in Florida.

The bill requires captive insurance and reinsurance companies to pay a processing fee of $1,500 and a renewal fee of $1,000. Additional $5 fees may be applicable for documents requiring certification of authenticity or the commissioner's signature. Any fees required through the application process in Chapter 628 not in conflict with the bill's fee requirements should also apply.

The bill applies the above application process and requirements to foreign or alien captive insurance companies[115] wishing to make Florida their captive's domicile. The bill also retains an exception provided in current law for industrial insured captive insurance companies - an industrial insured captive insurer need not be incorporated in Florida if it is validly incorporated in another jurisdiction. Thus, all other application requirements for domestic insurers should remain for foreign or alien industrial insured captive insurance companies except for reincorporating in this state.

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[112] An example of a requirement from Chapter 628 would be the requirement of applicants to file the name, residence address, business background, and qualifications of each person associated or to be associated in the formation or financing of the insurer. s. 628.051(2)(b), F.S.

[113] Unless the officer or director's actions did not contribute to the insolvency or unless the officer or director is immediately removed.

[114] "Business" specifically refers to insurer, reinsurer, captive insurance company, captive reinsurance company, financial institution, or financial services businesses in and out of the U.S. Officers or directors are only considered to have been officers or directors of an insolvent business when the officers or directors held their positions within the two year period prior to insolvency.

[115] The bill does not provide a definition for foreign or alien captive insurance companies. Presumptively, these are captive insurance companies domiciled in another jurisdiction.

Reporting
Current law requires captive insurance companies to submit, at least annually, a financial condition report to OIR,[116] and grants the Financial Services Commission authority to adopt by rule the form in which captive insurers shall report.[117] The law explicitly states that this is the only annual report that is required. The bill revises this language so that a captive insurance company *may* not be required to submit any other annual report, though limits the scope of other possible annual reporting requirements to Part V, Captive Insurers. The Financial Services Commission retains the authority to adopt by rule the form in which captive insurance companies shall report. The bill specifically requires captive reinsurance companies to report identically.

Additionally, the bill requires the financial report to be annual but no later than March 1, as opposed to current law, in which annual reporting is based around the company's fiscal year.[118] However, the bill does allow captive insurance companies to apply to file annually based on the parent company's fiscal year.

Reinsurance
Current law regulates captive reinsurance from both the perspective of a captive insurance company *acquiring* reinsurance and from the perspective of a captive insurance company *providing* reinsurance.[119] First, the law specifies that captive insurers may only use reinsurers authorized by OIR to reinsure part or all of its risks.[120] In certain circumstances, however, credit on account of reinsurance may be ceded to an unauthorized reinsurer.[121] Second, captive insurers are not permitted to reinsure risks in Florida when those risks are written by unauthorized insurers.[122] While the provisions under current law direct regulation mostly at captive insurance companies *acquiring* reinsurance, the bill's provisions direct regulation mostly at captive insurance companies *providing* reinsurance.

Not all companies can form captive reinsurance companies. The bill only allows reinsurance companies authorized[123] to provide reinsurance in Florida to form captive reinsurance companies. Once formed, the captive reinsurance company cannot directly insure risk.

Specific incorporation, reporting, capitalization, and licensing requirements for captive reinsurance companies have been provided above. The bill further provides requirements for captive reinsurance companies regarding discounting loss and loss adjustment expense reserves, and the management of companies' assets, as follows:

- Captive reinsurance companies are allowed to discount their loss and loss adjustment expense reserves. If they do, they must file an annual actuarial opinion on loss and loss adjustment expense reserves by an independent actuary.
- At least 35 percent of a captive reinsurance company's assets must be managed by an asset manager domiciled in Florida.

Miscellaneous

- The bill provides net asset requirements for nonprofit captive insurance companies formed as pure captives[124] and special purpose captives.[125]

[116] The report must be verified under oath by two of the captive's executive officers. s. 628.911(2), F.S.
[117] s. 628.911, F.S.
[118] s. 628.911(2), F.S.
[119] Note that most of the section referring to reinsurance refers to captive insurance companies acquiring reinsurance.
[120] s. 628.913(1)(a), F.S.
[121] s. 628.913(1)(b), F.S.
[122] s. 628.913(6), F.S.
[123] The bill explains which reinsurance companies qualify in the definition section under "Qualifying reinsurer parent company."
[124] Net assets must at least be $250,000.
[125] Net asset requirement determined by OIR.

- The Financial Services Commission is required to set standards ensuring that a parent or affiliated company can exercise risk management control of any unaffiliated business to be insured by a pure captive.
- OIR must consider licensed captive insurance companies for issuance of a certificate of authority to act as an insurer in this state.

Alien Insurers

The OIR is responsible for all activities concerning insurers and other risk bearing entities authorized under the Florida Insurance Code.[126] Regulatory oversight includes licensure, approval of rates and policy forms, market conduct and financial exams, solvency oversight, administrative supervision, and licensure of viatical settlement and premium finance companies, as provided in the Florida Insurance Code or ch. 636, F.S.[127] The OIR's Life and Health Financial Oversight unit monitors financial conditions through the use of internal financial analysis and on-site examinations.[128] Periodic financial report submission is part of the monitoring process. The Florida Insurance Code contains provisions designed to prevent insurers from becoming insolvent and to protect policyholders. These provisions include minimum capital and surplus requirements[129] and financial reporting requirements.[130] Florida law requires that insurers and other risk-bearing entities obtain a certificate of authority (COA) prior to engaging in insurance transactions[131, 132] unless specifically exempted.[133]

Current law provides an exemption from the requirement to obtain a COA for any insurer domiciled outside of the U.S. and covering only persons who, at the time of issuance or renewal, are nonresidents of the U.S.[134] A "nonresident" is defined as a person who resides in and maintains a physical place of domicile in a country other than the U.S., and which (s)he intends to maintain as her or his permanent home.

The law requires that the exempt insurer include a disclosure on all certificates issued in Florida reflecting that the policy has not been approved by the OIR. The insurer or any affiliated person under common ownership or control with the insurer may not solicit, sell, or accept application for any insurance policy or contract for issue or delivery to any U.S. resident. For purposes of this subsection of statute, a U.S. resident is a person who has:

- had her or his principal place of domicile in the United States for 180 days or more in the 365 days prior to issuance or renewal of the policy;
- registered to vote in any state;
- made a statement of domicile in any state; or,
- filed for homestead tax exemption on property in any state.

Other exemption eligibility provisions require the insurer to:

- Register with the OIR.
- Provide the following information to the OIR on annual basis:
  - Names of the owners, officers and directors and number of employees.
  - Lines of insurance and types of products offered.
  - A statement from the applicable regulatory body of the insurer's domicile certifying that the insurer is licensed or registered in that domicile.
  - A copy of filings required by the insurer's domicile.

[126] Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the "Florida Insurance Code".
[127] s. 20.121(3)(a)2., F.S.
[128] http://www.floir.com/lh/oir_LHFO_index.aspx
[129] s. 624.4095, F.S.
[130] s. 624.424, F.S.
[131] s. 624.10, F.S.
[132] s. 624.401, F.S.
[133] s. 624.402,F.S.
[134] s. 624.402(8), F.S.

The bill makes three primary changes to existing law. First, it deletes the reference to affiliated persons from the restriction on insurers soliciting or selling policies, or accepting applications. Thus, an insurer who has an affiliate will not be disqualified from obtaining an exemption. Second, the bill modifies the definition of nonresident to include a trust or other entity organized and domiciled under the laws of a country other than the United States. The bill also creates an exemption from the COA requirements for an alien insurer issuing life insurance or annuity contracts covering only persons who are not residents of the U.S., if the insurer meets the following requirements.[135]

- The insurer is an authorized insurer in its domiciliary country in the kinds of insurance proposed to be offered in this state; and:
  - Has been an insurer for at least the last three consecutive years; or
  - Is the wholly owned subsidiary of an authorized insurer; or is the wholly owned subsidiary of an already eligible authorized insurer as to the kind of insurance proposed to be issued in this state for a period of not less than the immediately preceding three years.
- Prior to the OIR granting eligibility to an alien insurer to issue policies and contracts in Florida, the insurer is required to meet the following requirements:
  - Submit a copy of its annual financial statement to the OIR in English and with all monetary values expressed in U.S. dollars.
  - Maintain a surplus of at least $15 million in eligible investments for like funds of like domestic insurers or by investments permitted by the domiciliary regulator, if such investments are substantially similar in terms of quality, liquidity, and security to eligible investments for like funds of domestic insurers under part II of ch. 625, F.S.
  - Have a good reputation for providing service and paying claims.
  - Furnish to the OIR with annual and quarterly financial statements.
  - Allow access to the insurer's books and records pertaining to its operations in Florida, at the request of the OIR.
  - Provide certain disclosures to policy or contract applicants, such as the date the insurer was organized; the identity and rating assigned by each rating organization that has rated the insurer; the insurer does not hold a COA; the OIR does not exercise regulatory oversight over the insurer; the policy or contract is not covered by a guaranty association, and the identity and address of the regulatory authority exercising oversight of the insurer.

The OIR may waive the 3-year operating requirement if the insurer has "operated successfully" for at least one year prior and has a surplus of at least $25 million. The bill also provides that these provisions do not impose upon the OIR any duty or responsibility to determine the actual financial condition or claims practices of an unauthorized insurer, and the status of eligibility, if granted, indicates only that the insurer appears to be financially sound and that the OIR has no credible evidence to the contrary. The bill provides that if the OIR has reason to believe that such an insurer is insolvent or is in unsound financial condition, or is no longer eligible to issue policies or contracts subject to the conditions of this subsection, the OIR may conduct an investigation or examination and may withdraw eligibility of the insurer.

The definition of nonresident is provided by a cross-reference to s. 624.402(8), F.S.

Eligible insurers issuing policies or contracts pursuant to this subsection are subject to part IX of ch. 626, F.S., and the OIR may take action against such insurers for violations of the Unfair Trade Practices Act. Insurers violating provisions of this new subsection are also subject to the penalties provided in ss. 624.15 and 626.910, F.S., relating to general penalties and penalties for unauthorized insurers.

All single-premium life insurance policies and single-premium annuity contracts issued to persons who are not residents of the United States and are not nonresidents illegally residing in the United States are subject to ch. 896, F.S., offenses related to financial transactions.

[135] In 2011, the Legislature repealed this exemption when it created the current law for alien insurers, ch. 2011-174, L.O.F.

The bill does not create an exception to the agent licensure requirements of ch. 626, F.S. An insurer issuing policies or contracts are required to appoint the agents the insurer uses to sell such policies or contracts as provided in ch. 626, F.S.

Policies and contracts issued pursuant to this subsection are not subject to the premium tax specified in s. 624.509, F.S., reflecting current practice for exempt entities.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
   None.

2. Expenditures:
   DFS Licensure Examinations in Spanish and Travel Insurance
   DFS estimates their cost to implement the bill is approximately $50,000.[136] The department estimates $45,000 of the $50,000 cost will be associated with translation of the agency's licensure exams from English to Spanish by a vendor. The remaining $5,000 cost is associated with updating the department's computer system to implement the new procedure for travel insurance provide by the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
   None.

2. Expenditures:
   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
DFS Licensure Examinations in Spanish
The provision requiring DFS license examinations in Spanish could result in examination costs to license applicants wanting to take the exam in Spanish being higher than those for the English language exam. The bill requires applicants wanting an exam in Spanish to bear the examination cost. Thus, if few applicants want a Spanish examination, the cost of the examination for the ones that do will be higher. It is impossible to know how many license applicants will request a Spanish examination, and thus impossible to determine how much a Spanish exam will cost so that the cost of a Spanish examination can be compared to the cost of an English examination.

However, DFS obtained data from Texas regarding the number of times the Texas exams for life insurance agents and limited lines agents were given in Spanish.[137] According to this data, from September 30, 2010 – August 31, 2011, Texas gave their life insurance agent exam 3,563 times, with the exam given in Spanish 101 of the 3,563 times. Comparably, Florida gave their life insurance examination 3,712 times annually. During the same September 2010 – August 2011 time period, the Texas limited license examination was given a total of 2,308 times, with the exam being given 29 of the 2,308 times in Spanish. Based on the Texas data and if the cost to translate the Florida license exam

[136] DFS Bill Analysis and Fiscal Impact Statement for HB 1101 dated 1/13/12.
[137] DFS Bill Analysis and Fiscal Impact Statement for HB 1101 dated 1/13/12.

to Spanish was recouped by DFS in one fiscal year, DFS estimates a license applicant talking a Spanish examination in Florida would pay $341 per examination, $298 more than the $43 cost to take an examination in English.

Travel Insurance
Insurers wanting to offer the expanded coverage for travel insurance allowed by the bill will incur costs associated with changing their insurance contracts reflecting the expanded coverage and filing the new contracts with the OIR for approval before implementing the new coverage.

Salvage Motor Vehicle Dealers – Insurance Requirements
Salvage motor vehicle dealers will no longer have to purchase garage liability and personal protection insurance on certain vehicles.

Citizens Property Insurance Corporation
Citizens' policyholders may have reduced premiums if the policyholder chooses a new method to value the replacement cost of the property and the value generated by the new method is lower than the current replacement cost.

Citizens' policyholders who choose an HO-8 policy, instead of an HO-3 policy, may have lower insurance rates and premiums. However, because Citizens' coverage will be more limited, the policyholder will likely not receive as high a claims payment in the event of a loss or may not receive a claims payment at all for a loss, if the loss is not covered.

Captive Insurance
States that have seen growth in captive insurance companies have seen positive economic impact through job creation. If the number of captive insurance companies grows in Florida, one would expect similar job growth for actuaries, lawyers, accountants, administrators, and support personal. Also, for a company forming a captive insurance company, an insurance policy tailored to the individual company's risk profile should effectuate overall savings.

Alien Insurers
Expanding the current exemption from the COA requirement for insurers domiciled outside of the U.S. and covering only persons who, at the time of issuance or renewal, are nonresidents of the U.S. may further allow for a variety of insurance offerings. Nonresidents, in their domicile outside the U.S., may be able to purchase more health, life, property and casualty, supplemental, and other types of insurance coverage for the time they are in Florida, and for their property in the state. More nonresidents may also visit Florida to avail themselves of services covered under the policy or contract. Hence, revenue from tourism may increase.

Corporation Not For Profit Self Insurance Funds
Allowing corporations not for profit to self insure for health, accident, or hospitalization insurance enables the members of the self-insurance fund to benefit from lower insurance premiums as a group than they would be eligible for individually.

D. FISCAL COMMENTS:
Changes made by the bill that require insurers to obtain OIR approval for revised insurance contracts will increase the workload of the OIR product review unit which reviews and approves insurance contracts, however, the OIR did not quantify the increased workload in the agency bill analysis.