

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: PCS/CS/SB 986 (824078)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Banking and Insurance Committee; and Senator Stargel

SUBJECT: Department of Financial Services

DATE: April 19, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sanders</u>	<u>Hansen</u>	<u>AP</u>	<u>Pre-meeting</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 986 makes various changes to statutes relating to the Department of Financial Services (DFS). The bill addresses clean-up issues at the Department of Financial Services within the Divisions of Treasury, Accounting and Auditing, State Fire Marshal, Agent and Agency Services and Risk Management.

The bill:

- Renames the Treasury Investment Committee as the Treasury Investment Council within the Division of Treasury and provides for the duties of the Council;
- Applies certain requirements relating to payments, warrants, and invoices to payments made in relation to certain agreements funded with federal or state assistance;
- Updates the 1991 Boiler Safety Act (Act) as to installation requirements, who can conduct inspections of boilers in public assembly locations, continuing education of inspectors, and changes criminal penalties to administrative fines for violations of the Act;
- Authorizes the DFS the authority to use appropriated funds for the purpose of professional development and training courses;
- Allows licensed individuals who are active participants in insurance associations to annually earn continuing education credits;
- Provides that the Division of Agent and Agency Services may not issue a license until an applicant with a criminal history has paid all fines, restitution, and court costs;
- Removes the statute of limitations for actions relating to the Holocaust Victims Assistance Program;

- Allows for the use of firefighter's confidential information for the purposes of certain studies;
- Removes a requirement for an individual to send a written notice of claim or serve a summons on the DFS for an action against a county.

The bill has an indeterminate impact on state revenue and expenditures. The DFS may see an increase in compliance and administrative litigation as its regulatory role significantly increases.<sup>1</sup>

The bill has an effective date of July 1, 2017.

## II. Present Situation:

The Chief Financial Officer (CFO) is a member of the Cabinet and serves as the chief fiscal officer of the state. The CFO is agency head of the DFS. The DFS performs a wide variety of functions. For example, the DFS processes various state payments, warrants, and invoices. It administers the Boiler Safety Act.<sup>2</sup> The DFS regulates insurance agencies, agents, and insurance adjusters. The following sections summarize various issues addressed by PCS/CS/SB 986.

### Treasury Investment Committee

Section 17.575, F.S., creates the Treasury Investment Committee (TIC) within the DFS' Division of Treasury. It consists of five members appointed by the CFO who possess special knowledge, experience, and familiarity in finance, investments, or accounting. The TIC administers the Treasury Investment Program consistent with policies approved by the CFO for deposits and investments of public funds. Section 1 of the bill changes this program.

### Payment of Vendor Invoices by the State

Section 215.422, F.S., governs payments by state agencies or the judicial branch to vendors. An invoice submitted to a state agency or the judicial branch must be:

- Recorded in the financial systems of the state;
- Approved for payment by the agency or the judicial branch; and,
- Filed with the CFO no later than 20 days after receipt of the invoice, unless there is a dispute or some other reason not to pay.<sup>3</sup>

In most cases, the DFS must approve payment of an invoice no later than 10 days after the agency the approved invoice.

If a warrant in payment of an invoice is not issued within 40 days after receipt of the invoice and receipt, inspection, and approval of the goods and services, the agency or judicial branch must pay to the vendor interest at the statutory interest rate.

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<sup>1</sup> The Department of Financial Services, *Senate Bill 986 Fiscal Analysis* (on file with the Senate Appropriations Subcommittee on General Government).

<sup>2</sup> Sections 554.1011-554.115, F.S.

<sup>3</sup> Section 215.422(1), F.S.

The interest requirements do not apply to payments for agreements funded with state or federal financial assistance pursuant to s. 215.971, F.S.

### **The Boiler Safety Act**

A boiler is “a closed vessel in which water or other liquid is heated, steam or vapor is generated, steam is superheated, or any combination of these functions is accomplished, under pressure or vacuum, for use external to itself, by the direct application of energy from the combustion of fuels or from electricity or solar energy. The term “boiler” includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.”<sup>4</sup> Florida’s Boiler Safety Act (Act) provides requirements for installation of boilers in public assembly locations, boiler code requirements, education requirements, and penalties for violations. The Act has remained essentially unchanged since 1991.

The DFS administers the Act. Sections 3-17 of this bill make changes to the Act.

### **Regulation of Insurance Agents and Adjusters**

The DFS’ Division of Insurance Agents and Agency Services regulates insurance agents, agencies, and adjusters. The regulation includes licensing, disciplinary actions, and education. Sections 18-30 of the bill revise provisions relating to agent and adjuster regulation.

### **Notice of Actions against the State**

Section 768.28, F.S., is the state’s waiver of sovereign immunity statute. The DFS’ Division of Risk Management is responsible for the management of claims reported by or against state agencies and universities for coverage under the self-insurance fund known as the "State Risk Management Trust Fund."<sup>5</sup> Section 768.28, F.S., requires notice or service on DFS in certain situations. Section 33 of the bill amends those provisions.

## **III. Effect of Proposed Changes:**

### **Treasury Investment Council**

**Section 1** amends s. 17.575, F.S. This section changes the name of the Treasury Investment Committee to the Treasury Investment Council (council). It requires that three of the five council members be from the private sector. Current members serve at the pleasure of the CFO. The bill changes the term to four years from the date of appointment but retains the ability of the CFO to remove members. The bill requires the council to review the investments required by s. 17.57, F.S., and meet with staff of the Division of Treasury at least biannually. The council will provide recommendations to the Division of Treasury and the CFO regarding investment policy, strategy, and procedures. It provides that council members may receive per diem and travel expenses pursuant to s. 112.061, F.S.

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<sup>4</sup> Section 554.1021(1), F.S.

<sup>5</sup> <http://www.myfloridacfo.com/Division/Risk/> (last accessed March 10, 2017).

## Payment of Vendor Invoices by the State

**Section 2** provides that the payment requirements of s. 215.422, F.S., including payment of interest for late payments, apply to agreements involving state or federal financial assistance in s. 215.971, F.S.

In the event the agreements are not paid timely, the Division of Auditing may have a slight impact to processing a few additional interest payments and vouchers.<sup>6</sup>

## Boiler Safety Act (Sections 3 through 18)

The bill amends and reorganizes the Boiler Safety Act.

**Section 3** amends s. 554.1021, F.S., to define “authorized inspection agency” so that various entities are allowed to conduct boiler inspections if their boiler inspectors hold valid certificates of compliance.

Entities include local governments or governmental subdivisions that have adopted into law the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers<sup>7</sup> and National Board Inspection Code for the construction, installation, inspection, maintenance, and repair of boilers to regulate boilers in public assembly locations.<sup>8</sup> The bill includes insurers authorized to transact boiler and machinery insurance in Florida and inspecting agencies accredited in accordance with the National Board of Boiler and Pressure Vessel Inspector’s program entitled “Accreditation of Authorized Inspection Agencies (AIA) Performing Inservice or Repair/Alteration Inspection Activities,” document number NB-369, as authorized inspection agencies.<sup>9</sup>

This section defines the following terms:

- “Inservice boiler” is a boiler placed in use after test firing and required inspections have been satisfactorily completed;
- “Operating boiler” means a boiler connected and ready for use;
- “Secured boiler” means a boiler that has been:
  - Physically disconnected from the system, including disconnection from fuel, water, steam, electricity and stack;
  - Locked out and tagged out in accordance with the Occupational Safety and Health Administration’s standard relating to the control of hazardous energy and lockout or tagout in 29 C.F.R. s. 1910.147, as adopted by rule of this department.
- “Authorized inspection agency” means:
  - Any county, municipality, town or other governmental subdivision that has adopted into law the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (ASME) and the National Board Inspection Code for the construction,

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<sup>6</sup> Department of Financial Services, *Senate Bill 986 Fiscal Analysis* (on file with the Senate Appropriations Subcommittee on General Government).

<sup>7</sup> [https://www.asme.org/getmedia/1adfc3df-7dab-44bf-a078-8b1c7d60bf0d/ASME\\_BPVC\\_2013-Brochure.aspx](https://www.asme.org/getmedia/1adfc3df-7dab-44bf-a078-8b1c7d60bf0d/ASME_BPVC_2013-Brochure.aspx) (last accessed March 10, 2017).

<sup>8</sup> <http://www.nationalboard.org/Index.aspx?pageID=4> (last accessed March 10, 2017).

<sup>9</sup> <https://www.nationalboard.org/SiteDocuments/Commissioned%20Inspectors/NB-369.pdf> (last accessed March 10, 2017).

- installation, inspection, maintenance, and repair of boilers to regulate boilers in public assembly locations, and whose boiler inspectors hold valid certificates of competency in accordance with s. 554.104, F.S.;
- An insurer authorized by a subsisting certificate of authority, issued by the OIR, to transact boiler and machinery insurance in this state, and whose boiler inspectors hold valid certificates of competency in accordance with s. 554.102, F.S.; and,
  - An inspecting agency accredited in accordance with the National Board of Boiler and Pressure Vessel Inspector's program entitled "Accreditation of Authorized Inspection Agencies (AIA) Performing Inservice or Repair/Alteration Inspection Activities," document number NB-369, and whose boiler inspectors hold valid certificates of competency in accordance with s. 554,104, F.S. The department shall by rule require an inspection agency authorized pursuant to this paragraph to maintain financial security adequate to indemnify the owner of the boiler if such agency's negligence or failure to inspect an uninsured boiler results in a loss. Such inspection agency may inspect uninsured boilers or, at the direction of an insurance company, may inspect a boiler insured by that insurance company; and
  - "Boiler insurance company" means a company authorized by a subsisting certificate of authority, issued by the OIR, to transact boiler and machinery insurance in this state.

**Section 4** amends s. 554.103, F.S., to require the installer of any boiler place in use after January 1, 2018, to apply for a permit to install the boiler with the chief boiler inspector.<sup>10</sup> The application must be on a form adopted by the DFS by rule. Before installing a boiler, the installer's application must include the ASME manufacturer's data report and other information required by law.<sup>11</sup> The installer must contact the chief boiler inspector to schedule an inspection no later than seven days before the boiler is placed into service.

Current law allows the DFS, at its discretion, to authorize the construction, installation, and operation of boilers of special design or construction which do not meet the specific requirements of the State Boiler Code (Code), but which are consistent with the safety objectives of the Code.

**Section 5** amends s. 554.104, F.S. The bill amends the certification system for boiler inspectors. Most of the amended s. 554.104, F.S., is current law in ss. 554.112 and 554.113, F.S. **Section 14** repeals those sections. The bill provides that a person may not be, act as, or advertise or hold himself or herself out to be a boiler inspector unless he or she holds a certificate of competency issued by the DFS. A person seeking certification must apply to take the certification examination.<sup>12</sup> A person may take the certification examination if:

- Has submitted the application for examination and the required fee;
- Is at least 18 years of age;
- Has completed the 2-hour training course; and
- Has at least 3 years of experience in the construction, installation, inspection, operation, maintenance, or repair of high pressure, high temperature water boilers; or

<sup>10</sup> The chief boiler inspector is appointed by the CFO pursuant to s. 554.105, F.S.

<sup>11</sup> Current law requires the information at least 90 days after the boiler is placed in service. s. 554.103(2), F.S.

<sup>12</sup> The examination required by the bill is the examination administered by the National Board of Boiler and Pressure Vessel Inspectors.

- Meets the requirements to qualify as a commissioned inspector by the National Board of Boiler and Pressure Vessel Inspectors as set forth in NB-263, RCI-1, Rules Commissioned Inspectors, as adopted by DFS rule.

The bill creates a two-hour training course requirement. The bill requires the DFS to adopt by rule a two-hour training course on the requirements of the Boiler Safety Act and related rules. DFS shall make the course available online and may make the course available in a classroom. The bill allows a boiler insurance company to include the DFS course as part of its training of boiler inspector students. Any boiler insurance company who makes the DFS course part of its in-house training must indicate the student received such training at the time of application for certification of competency.

The chief boiler inspection must issue a certificate of competency to an applicant who meets the qualifications, passes the required examination, and obtains a commission from the National Board of Boiler and Pressure Vessel Inspectors.

A certificate of competency expires on December 31 of each year and may be renewed upon the filing of a renewal application with the DFS. If available on the DFS website, the applicant must use a secured electronic application.

The bill moves the current language of s. 554.104, F.S., relating to the approval of boilers of special design to s. 554.103, F.S.

**Section 6** amends s. 554.105, F.S., to change the title “chief inspector” to “chief boiler inspector” and makes technical changes.

**Section 7** amends s. 554.106, F.S., to change the title “deputy inspector” to “deputy boiler inspector.” It provides that deputy boiler inspectors will conduct inspections of uninsured boilers and engage in public outreach and other duties as assigned by the chief boiler inspector.

**Section 8** amends s. 554.107, F.S., to change the title of “special inspector” to “special boiler inspector” and makes conforming changes for consistency with other changes made by the bill.

**Section 9** amends s. 554.108, F.S., requires inspections of boilers in public assembly locations within 30 days after the expiration of the boiler’s certificate of operation and provides reporting requirements.

This section exempts potable hot water supply boiler with a heat input of 200,000 British thermal units (Btu) per hour and above, up to a heat input not exceeding 400,000 Btu per hour, from inspection. The exemption clarifies the boiler must be stamped with ASME code symbol “HLW” and the boiler’s ASME data report must be filed as required under s. 554.103(2), F.S.

This section provides if the chief boiler inspector, deputy boiler inspector, or special boiler inspector discovers a violation of any provision of the State Boiler Code, the inspector must promptly notify the owner or user or state as to what repairs or other corrective measures are needed to bring the boiler into compliance. This section gives DFS rulemaking authority to adopt

forms related written inspection reports. The certificate inspection report must list all violations of the State Boiler Code and any conditions that may adversely affect the operation of the boiler. The bill authorizes the agency responsible for conducting inspections to conduct follow up inspections, not more than every six months, for previously identified code violations until correction of the violation. The inspector must indicate on the report if correction of the code violation has occurred.

If a chief boiler inspector determines a boiler cannot be safely operated, the boiler is deemed an imminent danger to the health, safety and welfare of the public and is immediately shut down. The chief boiler inspector shall attach a tag to the boiler indicating the boiler has been shut down due to unsafe conditions. The boiler must remain shut down until such time as the chief boiler inspector or deputy boiler inspector determines it may be safely operated. The DFS may adopt rules necessary to administer this section.

**Section 10** creates s. 554.1081, F.S. This section provides for boiler inspections by insurance companies and local governmental agencies. This section authorizes an insurance company insuring a boiler located in a public assembly location to inspect or contract with an authorized inspection agency the insured boiler. The insurance company must file annual reports providing the name of any authorized inspection agency performing any required boiler inspections on its behalf to the DFS. The insurance company shall actively monitor insured boilers to ensure that inspections are conducted as required by this chapter.

This section allows any county, municipality, town or other governmental subdivision to inspect boilers if it has adopted into law the Boiler and Pressure Vessel Code of the ASME and the National Board Inspection Code for the construction, installation, inspection, maintenance, and repair of boilers to regulate boilers in public assembly locations. These inspections must be conducted by special boiler inspectors in accordance with this chapter.

**Section 11** amends s. 554.109, F.S., to strike provisions relating to inspections by insurers or local governments because those provisions are in the newly created s. 554.1081, F.S. The bill also strikes unnecessary provisions related to water supply boilers and water heaters.

**Section 12** amends s. 554.1101, F.S., to require boiler insurance companies to notify the chief boiler inspector within 30 days after the issuance of a new or renewal boiler and machinery insurance policy, or the cancellation or nonrenewal of a boiler and machinery insurance policy.

**Section 13** amends s. 554.111, F.S., relating to fees paid to the DFS for certification inspections, applications, and examinations. The bill requires that an application for a boiler permit include the certificate inspection fee. Currently, collection of the fee is after the inspection. The bill does not raise any of the current fees.

**Section 14** repeals ss. 554.114 and 554.113, Florida Statutes. This section removes the requirement for certification examination by the DFS, as inspectors are required to take an examination conducted by the National Board of Boiler and Pressure Vessel Inspectors.<sup>13</sup>

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<sup>13</sup> The Department of Financial Services, *Senate Bill 986 Fiscal Analysis* (on file with the Senate Appropriations Subcommittee on General Government).

**Section 15** amends s. 554.114, F.S., to remove criminal penalties for violations of the Act. Current law provides that specified violations are a second-degree misdemeanor. This bill provides for administrative fines of \$10 per day for the first 10 days of noncompliance, \$50 per day for the next 20 days of noncompliance, and \$100 per day for subsequent days. Violations that can lead to financial penalties are:

- Operating a boiler without a valid certificate;
- Using a certificate for any boiler other than the boiler for which it was intended; and
- Inspecting a boiler without holding a valid certificate.

The bill also provides penalties if boiler insurance companies or authorized inspection agencies fail to comply with inspection requirements.

**Section 16** makes conforming changes to s. 554.115, F.S.

**Section 17** creates s. 554.1151, F.S., to give the DFS discretion to impose administrative fines in lieu of or in addition to revocation or suspension of certificates in s. 554.115, F.S. Fine amounts are up to \$500 for non-willful violations and up to \$3,500 for willful violations. It provides for suspension or revocation if payment of fines is not within 30 or 90 days.

Under current law, the punishment for failure to have a valid Certificate of Operation for an operating boiler is a second degree misdemeanor and requires notification to the chief inspector and the appropriate State Attorney. Oftentimes the State Attorney declines prosecution of these violations due to heavy caseloads within the circuit.<sup>14</sup>

### **Regulation of Insurance Agents and Adjusters**

**Sections 19 and 25** amend ss. 626.015 and 626.2815, F.S., respectively, relating to continuing education requirements for licensees. The bill provides that “active participants” in “associations” may receive two hours of continuing education credit each calendar year. The bill defines “active participants” as a member who attends four or more hours of association activities each year. It defines “association” to include:

- Florida Association of Insurance Agents (FAIA);
- National Association of Insurance and Financial Advisors (NAIFA);
- Florida Association of Health Underwriters (FAHU);
- Latin American Association of Insurance Agencies (LAAIA);
- Florida Association of Public Insurance Adjusters (FAPIA);
- Florida Bail Agents Association (FBAA); or
- Professional Bail Agents of the United States (PBUS).

**Section 20** amends s. 626.207, F.S. Current law provides that persons with certain criminal convictions<sup>15</sup> are barred from applying for licensure for licenses regulated under ch. 626, F.S.,

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<sup>14</sup> *Id.*

<sup>15</sup> When “conviction” is used when discussing DFS agent and agency regulatory statutes in this bill analysis, it means a conviction or the entry of guilty or nolo contendere plea regardless of whether adjudication was withheld.



for specified periods of time.<sup>16</sup> The bill allows such persons to apply for licensure but provides that such persons are barred from licensure.

The time a person is barred from applying for licensure begins to run upon completion of the criminal sentence including the payment of all fines, restitution, and court costs.<sup>17</sup> This provides that the time begins to run upon completion of an applicant's criminal sentence (including the end of any period of probation or community control) and provides that a license cannot be issued until all fines, restitution, and court costs are paid. This will allow applicants who pay their restitution during, for example, a period of probation, to be licensed sooner.

In *Kauk v. Department of Financial Services*,<sup>18</sup> the court considered whether the *per se* bar in s. 626.207, F.S., applied to someone who had had his civil rights restored through executive clemency. The court held that the DFS could not impose a bar against Kauk because Kauk had had his civil restored and a hearing officer had found Kauk to be a "citizen fully rehabilitated."<sup>19</sup> This bill codifies the result of *Kauk*. It provides that the time bars in s. 626.207, F.S., do not apply to someone who has had his civil rights restored or has been issued a pardon. The bill does not require the DFS to issue a license if a person has been granted a pardon or had his or her civil rights restored. Rather, it provides the DFS cannot consider the finding of guilt or entry of the plea for which clemency was granted as grounds to deny the application. **Section 24** makes similar changes to the law relating to health insurance navigators in s. 626.9954, F.S., so that the same disqualifying periods and clemency rules will apply to insurance agents and to navigators.

Section 626.611, F.S., provides grounds for which the DFS must deny an application for licensure or appointment and grounds for which it must suspend or revoke an existing license or appointment. Section 626.621, F.S., provides grounds for which the DFS may refuse to issue a license or appointment, or may suspend or revoke an existing license or appointment. These sections apply to applicants for licensure or license renewal, agents, adjusters, customer representatives, service representatives, and managing general agents. Section 626.611, F.S., currently requires a suspension or revocation for convictions of felonies involving moral turpitude.

**Section 21** amends s. 626.221, F.S., to provide that an applicant for an all-lines adjuster license who holds the Universal Claim Certification from the Claims and Litigation Management Alliance is exempt from the examination requirements.

**Section 22** amends s. 626.2815, to provide that any part of the Claims and Litigation Management (CLM) Universal Claims Certification (UCC) professional designation can provide up to 19 hours of elective continuing education and 5 hours of the update course required of agents and adjusters.

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<sup>16</sup> Persons and entities licensed by the DFS include agents, agencies, adjusters, adjusting firms, customer representatives, or managing general agents.

<sup>17</sup> Section 626.207(6), F.S.

<sup>18</sup> 131 So.3d 805 (Fla. 1<sup>st</sup> DCA 2014).

<sup>19</sup> 131 So.3d at 808.

**Section 23** amends s. 626.8734, F.S., to provide that an applicant holding the Universal Claims Certification (UCC) from the Claims and Litigation Management Alliance (CLM) is exempt from the examination requirements to become a nonresident all-lines adjuster.

**Section 26** amends s. 626.611, F.S., to require suspension or revocation for all felonies. This section also removes the moral turpitude provision in s. 626.611(n), F.S.

**Section 27** amends s. 626.621, F.S., to provide that license denial, license revocation, or suspension is discretionary with the DFS if a state agency, court, other state, any nation, or possession or district of the United States takes regulatory action against a license to practice a regulated profession or business.

**Sections 28 and 29** amend s. 626.7845, F.S., and s. 626.8305, F.S., respectively, to allow trustees to advise persons, settlors, or beneficiaries regarding their interests in a trust regarding life or health insurance plans.

**Section 30** amends s. 626.861, F.S., to allow a regular employee of a property insurer handling claims to adjust claims with respect to residential property insurance when the sublimit coverage does not exceed \$500.

### **Holocaust Victims**

Section 626.9543, F.S., provides that any insurer doing business in this state, in receipt of a claim from a Holocaust victim or from a beneficiary, descendant, or heir of a Holocaust victim, must:

- Diligently and expeditiously investigate all such claims;
- Allow such claimants to meet a reasonable, not unduly restrictive, standard of proof to substantiate a claim, pursuant to standards established by the DFS; and
- Permit claims irrespective of any statute of limitations or notice requirements imposed by any insurance policy issued, provided submission of the claim is on or before July 1, 2018.

**Section 31** amends s. 626.9543 to remove the July 1, 2018, claims deadline.

The bill provides that actions brought by Holocaust victims or by a beneficiary, heir, or a descendant of a Holocaust victim seeking proceeds of an insurance policy issued or in effect between 1920 and 1945, inclusive, may not be dismissed for failure to comply with the statute of limitations or laches. Current law provides that such action must commence on or before July 1, 2018.

This section authorizes the DFS to continue to assist the approximate 12,500 existing Holocaust victims in filing potential and actual insurance claims.<sup>20</sup>

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<sup>20</sup> Department of Financial Regulation, *Senate Bill 986 Fiscal Analysis* (on file with the Senate Appropriations Subcommittee on General Government).

## Notice of Actions against the State

**Section 33** amends s. 768.28, F.S. Section 768.28, F.S., is the state's waiver of sovereign immunity. Under current law, s. 768.21(6)(a), F.S., provides that an action cannot be initiated against the state or one of its agencies or subdivisions unless a claimant presents the claim in writing to the appropriate agency and to the DFS. A claimant does not have to provide notice to the DFS if the claim is against a municipality or the Florida Space Authority. DFS reports that it receives many notices when claimants make claims against counties. The DFS Division of Risk Management is not involved in claims against counties so the DFS believes it is not necessary that DFS receive the notice. The bill provides that a claimant does not have to present notice to the DFS if the claim is against a county.

Similarly, s. 768.21(7), F.S., requires service of process on DFS unless the case is brought pursuant to s. 768.28, F.S., process must be served on the agency head and DFS except for cases where the defendant is a municipality or the Florida Space Authority. The bill provides that service is not required on the DFS if the defendant is a county. The DFS' Division of Risk Management could reallocate resources expended to process in excess of 7,500 subdivision notices per year, which fall outside the coverage provided by the Risk Management Insurance Trust Fund.<sup>21</sup>

## Miscellaneous Provisions

**Section 18** of this bill amends s. 624.307, F.S., to provide authority to specific divisions<sup>22</sup> within the DFS to expend funds, subject to availability, for professional development of staff. The bill does not provide an appropriation.

Currently, The Office of Insurance Regulation may expend funds, subject to availability, for the professional development of its staff. Expenditures may include dues for professional organizations, fees for examinations leading to professional designations, and relevant training courses.

**Section 32** amends s. 633.516, F.S., relating to occupational disease studies of firefighter or persons in other fire-related fields. The bill provides that the DFS may share, under controlled or secure circumstances, confidential information, including a social security number, with the contracted entity for the study.<sup>23</sup>

**Section 34** amends s. 288.706, F.S., to change statutory citations to conform to changes made in Section 2 of the bill.

**Sections 35 and 36** amend ss. 626.7315 and 627.351, F.S., to change statutory citations to conform to the changes made in Section 19 of the bill.

**Section 37** provides an effective date of July 1, 2017.

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.* DFS identifies these divisions as Division of Insurance Agent & Agency Services, Consumer Services, and Rehabilitation and Liquidation and the Office of the Insurance Consumer.

<sup>23</sup> *Id.*

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The impact on the private sector from changes to the Boiler Safety Act is indeterminate.

## C. Government Sector Impact:

The overall impact of this bill is indeterminate on state revenues and expenditures. The changes to the Boiler Safety Act may have an indeterminate fiscal impact on the DFS.<sup>24</sup> The DFS may see a slight increase in revenue if the levy of fines occur against boiler owners who fail to correct compliance issues. The DFS may have additional expenses (relating to professional development of DFS staff) and workload (relating to agreements involving state or federal financial assistance), but these additional costs will be absorbed within current resources.<sup>25</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 17.575, 215.422, 554.1021, 554.103, 554.104, 554.105, 554.106, 554.107, 554.108, 554.109, 554.1101, 554.111, 554.114, 554.115, 624.307, 626.015, 626.207, 626.221, 626.2815, 626.8734, 626.9954,

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

626.2815, 626.611, 626.621, 626.7845, 626.8305, 626.861, 626.8734, 626.9543, 633.516, 768.28, 288.706, 626.7315, and 627.351.

This bill creates the following sections of the Florida Statutes: 554.1081 and 554.1151.

This bill repeals the following sections of the Florida Statutes: 554.112 and 554.113.

## **IX. Additional Information:**

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

### **Recommended CS/CS by Appropriations Subcommittee on General Government on March 29, 2017:**

The CS amends the definition of “authorized inspection agency” to require an agency to maintain financial security adequate to indemnify the owner of the boiler if the agency’s negligence or failure to inspect results in a loss. The CS removes a requirement that an insurer remit a fee when it inspects a boiler. It changes the time for reinspection certain boilers from four to six months. The CS provides insurers will not be penalized for failure to inspect if the failure was caused by certain acts of the boiler owner. It removes a provision requiring annual reports by insurers to the chief boiler inspector.

### **CS by Banking and Insurance on March 14, 2017:**

The CS provides that claimants instituting civil actions against counties do not have to give notice to or serve the DFS. It also provides that some of the boiler installation requirements created by the bill are not effective until January 1, 2018.

- B. **Amendments:**

None.