

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1393 Department of Financial Services

SPONSOR(S): Commerce Committee; Government Operations & Technology Appropriations Subcommittee; Insurance & Banking Subcommittee; Clemons and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1704

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	15 Y, 0 N, As CS	Pirrello	Luczynski
2) Government Operations & Technology Appropriations Subcommittee	12 Y, 0 N, As CS	Helpling	Topp
3) Commerce Committee	22 Y, 0 N, As CS	Pirrello	Hamon

SUMMARY ANALYSIS

The bill modifies several areas regulated by the Department of Financial Services (DFS), including:

- Allowing the Division of Treasury to maintain warrants paid rather than turning them over to the Division of Accounting and Auditing and extending the retention period from five to ten years;
- Permitting a funeral director in charge to supervise up to 4 facilities, provided they are within a specified distance from one another;
- Authorizing out of state trust companies to service a funeral or cemetery's care and maintenance trust fund;
- Providing criteria for internship programs for a joint funeral director and embalmer license applicant;
- Allowing out of state trust companies to receive funds from a preneed contract without obtaining a preneed license;
- Providing that identification of state-owned and leased buildings will be determined using the Florida State-Owned Lands and Information System rather than the U.S. National Grid Coordinate System;
- Requiring that inspection reports for fire protection and control systems should be submitted pursuant to statewide procedures to be set by the State Fire Marshal (SFM);
- Directing SFM to develop employer best practices for firefighter cancer prevention;
- Consolidating little used or previously repealed license types;
- Allowing licensees who currently hold a limited license as an industrial fire or burglary agent to renew their license but prohibiting new licenses from being issued;
- Authorizing DFS discretion to deny an application for an insurance agency license on the grounds that another jurisdiction has taken an adverse action against a professional license held by the agency or a person who manages or controls such agency;
- Allowing formerly disqualified agents who have served half of the disqualifying period to apply for a probationary license;
- Allowing DFS to automatically disburse certain unclaimed property accounts to verified claimants;
- Creating the Florida Blockchain Task Force;
- Requiring notice be sent to purchasers of preneed services when the services have not been rendered after a specified time frame and providing for distribution of funds held in trust; and
- Providing for the regulation of Luxury Ground Transportation Network Companies and prohibiting local governments from imposing certain restrictions on such companies.

The bill has no impact on state or local government expenditures. It has a positive impact on local government revenues. See *Fiscal Analysis & Economic Impact Statement*.

Except as otherwise provided, the bill is effective July, 1, 2019.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1393d.COM

DATE: 4/22/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Department of Financial Services Organization

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the chief fiscal officer of the State of Florida¹ and is designated as the State Fire Marshal. The CFO is the head of the Department of Financial Services (DFS). Effective January 2003, the Department of Insurance, Treasury, State Fire Marshal and the Department of Banking and Finance merged into DFS. DFS consists of many divisions and several specialized offices.²

DFS is composed of 13 divisions and one independent office. They are the Divisions of:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;³
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property;
- Workers' Compensation;
- Administration; and the
- Office of Insurance Consumer Advocate.

Division of Treasury

The division keeps a record of the warrants and other orders of the CFO.⁴ The division also pays warrants and accounts for all state funds and securities.⁵ Under current law, the Division of Treasury is required to turn over all warrants paid by the division which were drawn by the CFO or the Comptroller, to the Division of Accounting and Auditing.⁶ The general records schedule for state and local government requires that warrants be maintained for a minimum of five fiscal years after the transaction is completed.⁷

Effect of the Bill

The bill removes the requirement that paid warrants be turned over to the Division of Accounting and Auditing. The bill requires the Division of Treasury to maintain the warrants for 10 years after the date on which a warrant was presented for payment.

¹ Art. IV, s. 4, Fla. Const.

² S. 20.121, F.S.

³ This division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.

⁴ *Id.*

⁵ *Id.*

⁶ S. 17.56, F.S.

⁷ Florida Department of State, *General Records Schedule GSI-SL for State and Local Government Agencies*, (2017).

Funeral, Cemetery & Consumer Services

The Florida Funeral, Cemetery, and Consumer Services Act (Act), provides for the regulatory oversight of the death care industry, which includes the following individual and entity licenses.⁸

- Brokers of burial rights;
- Cemeteries;
- Central embalming facilities;
- Cinerator facilities;
- Direct disposer and direct disposal establishments;
- Embalmers (including apprentices, interns, and by endorsement);
- Funeral directors and funeral establishments;
- Preneed, preneed branches, and preneed sales agents;
- Monument establishments and monument establishment sales agents;
- Refrigeration facilities;
- Removal services; and
- Training facilities.

The Act is administered jointly by DFS's Division of Funeral, Cemetery, & Consumer Services (division) and the Board of Funeral, Cemetery & Funeral Services.

Joint Funeral Director & Embalmer License

A person may be licensed as both a funeral director and an embalmer if they meet the separate requirements for both licenses.⁹ Licensees are regulated as both funeral directors and embalmers.¹⁰ A person may become licensed as an embalmer or funeral director if the applicant has completed a one year internship under a licensed embalmer or funeral director.¹¹

Effect of the Bill

The bill requires that applicants for a joint funeral director and embalmer license hold the educational credentials required for funeral directors. Applicants for a joint license are required to hold either an associate's degree in arts, science or mortuary science, or an associate's degree from an accredited university where they took a course in mortuary science or funeral service arts which was approved by the licensing authority from a college or university accredited by the American Board of Funeral Service Education (ABFSE).

The bill allows the internship for the funeral director or embalmer license to be served concurrently for those who wish to apply for a joint license. An applicant who has not completed the educational requirements for licensure as a funeral director and embalmer is eligible to become an intern if they are currently enrolled in a college accredited by the ABFSE and enrolled in a course in mortuary science accredited by the ABFSE. The applicant must have completed at least 75 percent of the course of study and have received passing grades in mortuary law or funeral service law and ethics. Interns must work under licensed funeral directors or embalmers and may perform only the tasks, functions and duties relating to funeral directing and embalming, which are performed under the supervision of the licensee. An intern who has graduated from an accredited college with a degree as specified above and passage of the examination required under s. 497.737(2), F.S., and intends to apply for joint licensure may perform such tasks, functions, and duties under the general supervision of a licensed funeral director and embalmer. The supervisor must certify after six months of direct supervision that the intern is competent to complete the internship under general supervision. Combination licenses for interns expire one year after issuance and may only be renewed if the failure to complete the internship before expiration of the license is due to illness, personal injury or other substantial hardship beyond the

⁸ DFS Division of Funeral, Cemetery & Consumer Services, *Who We Regulate: Regulated Categories & Number of Licensees*, <http://www.myfloridacfo.com/Division/FuneralCemetery/About/Whoweregulate.htm> (last visited Mar. 11, 2019).

⁹ S. 497.376, F.S.

¹⁰ *Id.*

¹¹ S. 497.368(2)(b), F.S.; S. 497.373(2)(c), F.S.

applicant's control, or the applicant has completed the internship and is awaiting the results of their exam.

Limitations on Supervision

The Act sets forth the scope of the practice of funeral directing, which may be performed only by a licensed funeral director. Currently, one of the permitted acts is planning or arranging, on an at-need basis, the details of funeral services, embalming, cremation, or other services relating to the final disposition of human remains with the decedent's family, friends, or other person responsible for such services. Current law requires that each licensed funeral establishment have one full-time funeral director in charge who must also be licensed as an embalmer or combination funeral director and embalmer.¹² A funeral director in charge may not serve as a funeral director in charge for more than one facility or establishment.

Each facility or establishment must be supervised by the appropriate, full-time, in charge licensee, who may not also be a full-time licensee in charge of another facility or establishment. A centralized embalming facility must be supervised by a full-time, embalmer in charge. A direct disposal facility must be supervised by a full-time, funeral director acting as the direct disposer in charge, or a licensed direct disposer acting as the direct disposer in charge, if the direct disposer has been grandfathered in. A cinerator facility must be supervised by a licensed direct disposer or funeral director in charge.

Effect of the Bill

The bill provides that a funeral director in charge, with appropriate, active licenses, may serve as such for up to a total of four funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities, as long as the two farthest locations are no more than 75 miles apart, as measured in a straight line. However, an embalmer, with an active, valid embalmer license, may still serve as the required embalmer in charge of a single centralized embalming facility. A licensed direct disposer, who has been grandfathered in, may act as the required direct disposer in charge of a single direct disposal establishment. And a licensed direct disposer may serve as the required direct disposer in charge of a single cinerator facility.

Care & Maintenance Trusts

A person may not operate a cemetery company unless licensed under ch. 497, F.S.¹³ Cemetery companies that own or control cemetery lands and property are required by the Act to ensure that the grounds, structures and improvements of a cemetery are well cared for and maintained in a proper condition.¹⁴ To achieve this, the Act requires cemetery companies to establish "care and maintenance trust funds" with trust companies or banks, or savings and loan associations with trust powers.¹⁵ In other states, these trusts are commonly known as "perpetual care trusts." Cemetery companies are required to set aside and deposit specified amounts from the sales of burial rights into their care and maintenance trust funds. One requirement of licensure is that applicants establish a care and maintenance trust fund containing not less than \$50,000 which has been certified by a trust company operating pursuant to ch. 660, F.S., a state or national bank holding trust powers, or a savings and loan association holding trust powers.¹⁶

Effect of the Bill

The bill allows the trust fund to be certified by a Florida or out of state trust company.

¹² A funeral director may serve as the funeral director in charge without an embalmer or combo license if they have been grandfathered in under s. 497.380(7), F.S.

¹³ S. 497.263, F.S.

¹⁴ S. 497.262, F.S.

¹⁵ The appointments of these institutional trustees are subject to the approval of the licensing authority. These trustees are subject to investment limitations and annual financial reporting requirements in the Act.

¹⁶ *Id.*

Preneed Contracts and Licenses

Preneed sales are governed by part IV of the Act, which requires sellers of funeral merchandise or service to obtain a preneed license and also be licensed as a funeral establishment, cemetery company, direct disposal establishment, or monument establishment. No person or cemetery may sell, advertise to sell or make an arrangement for a preneed contract unless they have a valid preneed license.¹⁷ No person may receive any funds for payment on a preneed contract who does not hold a valid preneed license, except trust companies operating pursuant to ch 660, F.S., a national or state bank holding trust powers, or a federal or state savings and loan association having trust powers.¹⁸ On or before April 1 of each year, preneed licensees are required to file annual trust reports for contract sales made the prior calendar year.¹⁹

Effect of the Bill

The bill expands the trust company preneed licensure exemption to include out of state trust companies.

The bill requires additional annual trust reports regarding the operations of each licensee in the group for any group of preneed licensees under common control who sold in aggregate 15,000 or more preneed contracts in the preceding year. In the year following the aggregate sale of 15,000 or more preneed contracts, the group shall prepare a report of preneed operations for each licensee for the previous year, pay for the report to be audited by an independent certified public accounting firm (CPA), and provide the report to the division by December 31 with a written and signed opinion of the CPA concerning the accuracy and fairness of the data presented in the report. DFS shall create forms and procedures for submission of the report by rule.

The bill requires a notice to be sent to a purchaser of preneed funeral services when the preneed services have not been provided and fifty years have passed since the purchase was made, the beneficiary of the services has attained 105 years of age, or older, or the beneficiary's social security number appears in the Social Security Administration's Death Master File, whichever occurs first. The required notice informs the purchaser that the funds related to the unfulfilled preneed contract will be distributed consistent with the terms of the preneed contract. This does not require the contract to be cancelled; rather, the contract may remain in place or can be cancelled and refunded, at the election of the purchaser, if they respond to the notice.

The amendment requires a diligent effort to obtain a secondary address if the notice is undeliverable. If a response to the notice is not received within 120 days of the last mailing, the funds held in trust for the preneed services will be distributed in accordance with the terms of the preneed contract, the governing trust agreement, and the Florida Disposition of Unclaimed Property Act. Rulemaking authority is given to the licensing authority to implement these requirements.

Fire Prevention and Control

The Division of State Fire Marshal (SFM) is dedicated to protecting life, property and the environment from the devastation of fire. Their focus and efforts foster a fire safe environment through engineering, education and enforcement. The SFM is composed of the Bureau of Fire Prevention and the Bureau of Fire Standards and Training.

Inspection of State Buildings

The SFM or its agents must inspect each state-owned building on a recurring basis and, within seven days of inspection, submit a report to the head of the state agency responsible for the building

¹⁷ S. 497.452, F.S.

¹⁸ *Id.*

¹⁹ S. 497.453(8), F.S.

regarding any conditions liable to cause fire or endanger life.²⁰ State-owned buildings include private correctional facilities.²¹ Whether a location is state-owned or leased is determined by consulting the U.S. National Grid (USNG) Coordinate System.²² However, the technology required to use the USNG coordinates is not currently available to DFS. The Department of Environmental Protection and the Department of Management Services currently maintain the Florida State-Owned Lands and Information System which provides a record of the state's inventory of real estate properties that are owned, leased, rented or otherwise occupied by the state.²³

Effect of the Bill

The bill removes the reference to the USNG Coordinate System for determining whether a location is a state owned or leased building. The Florida State-Owned Lands Information system will be used in lieu of the USNG Coordinate System.

Inspection of Fire Protection & Control Systems

The SFM has the right to inspect any fire control system in order to determine that such system meets the standards set forth by the state.²⁴ Inspections may be conducted by independent contractors.²⁵ Contractors must provide inspection reports to the property owner and the local authority having jurisdiction over the area.²⁶

Effect of the Bill

The bill requires that the SFM adopt rules to implement a uniform submission procedure for the collection of inspection reports. The local authority having jurisdiction may accept the report by mail, hand delivery, electronically or through a vendor. SFM shall adopt rules to establish submission procedures for each of these methods. These rules must allow a contractor to attach additional documents, including their detailed inspection report, to the submission.

The standardized procedures to be set by the SFM shall include a standardized reporting format for a uniform summary report. The uniform summary report shall include:

- The address of the building or hydrant;
- The company and person conducting the inspection and their license number;
- The date of the inspection;
- The fire protection system or hydrant inspection status; and
- A brief summary of each deficiency, critical deficiency, noncritical deficiency or impairment found.

The contractor's inspection report is not required to follow a uniform format and contractors may not be required to enter details of the inspection report. The submission procedures created by SFM may not require a contractor to submit information contained within the detailed inspection report unless he information is required to be included in the uniform summary report.

The law provides requirements for the installation of fire extinguishers and preengineered systems including the standards for the installation of equipment. The bill requires that equipment must be installed using only components and parts specified by the manufacturer or listed as equal parts by a nationally recognized testing laboratory.

²⁰ S. 633.218, F.S.

²¹ *Id.*

²² *Id.*

²³ Florida Department of Financial Services, Agency Analysis of 2019 House Bill 1393, p.3, (Mar. 12, 2019).

²⁴ S. 633.312, F.S.

²⁵ *Id.*

²⁶ *Id.*

Firefighter Employer Responsibilities

Each employer of firefighters is required to furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such employment safe and do every other thing reasonably necessary to protect the lives, health, and safety of such employees.²⁷

Effect of the Bill

The bill directs the SFM to adopt rules to establish best practices for cancer prevention related to personal protective equipment, decontamination, fire suppression equipment and fire stations.

Division of Insurance Agent and Agency Services

The Division of Insurance Agent and Agency Services regulates the licensure of insurance agents, adjusters, limited surety (bail bond) agents, and other insurance-related entities.²⁸ No person may be, act as, or advertise, or hold himself/herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by DFS and appointed by an appropriate appointing entity or person.²⁹ There are several types of insurance representatives. These include general lines agents, life insurance agents, health insurance agents, title insurance agents, personal lines agents, and unaffiliated insurance agents.³⁰ A general lines agent means an agent transacting any one or more of the following kinds of insurance: property, casualty, commercial self-insurance, workers' compensation, surety, health, or marine.³¹ A personal lines agent means a general lines agent who is limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.³²

Temporary Licensing

Currently, a temporary license that is valid for six months is available to general lines and life agents, as well as industrial fire and burglary agents who meet the following criteria. Applicants must be at least 18 years of age, and a U.S. citizen or legal alien possessing work authorization from the U.S. Bureau of Citizenship and Immigration Services.³³ In the case of a general lines agent, a temporary license may be issued to a licensee's family member, employee, business associate or personal representative for the purpose of continuing or wrapping up the business affairs of the agent or agency should the licensee die or otherwise become unable to fulfill their duties.³⁴

The applicant for a temporary license under these conditions must be qualified for a regular general lines agent license (except as to residence, examination, education or experience), submit the application based upon statements and affidavits filed with DFS, and shall not represent any insurer not last represented by the agent being replaced and shall not be licensed or appointed as to any additional kind, line or class of insurance other than those covered by the last existing agency appointments of the replaced agent.³⁵ The temporary license shall only be granted if no other individual connected with the agent's business is licensed as a general lines agent.³⁶

²⁷ S. 633.520, F.S.

²⁸ Division of Insurance Agent and Agency Services, <https://myfloridacfo.com/Division/Agents/> (last visited Mar. 12, 2019).

²⁹ S. 626.112, F.S.

³⁰ S. 626.015, F.S.

³¹ S. 626.015(7), F.S.

³² S. 626.015(17), F.S.

³³ S. 626.175(1)(a), F.S.

³⁴ S. 626.175(b), F.S.

³⁵ *Id.*

³⁶ *Id.*

In the case of a life agent, DFS may issue a temporary license to the executor or administrator of a deceased life agent's estate, a surviving next of kin, if no administrator has been appointed, or an individual otherwise qualified to be licensed as an agent who has completed the educational or training requirements prescribed in s. 626.7851, F.S., and who has passed the required examination prior to termination of the six month period.³⁷

Effect of the Bill

The bill consolidates several little used or previously repealed license types by:

- Removing temporary licensing and related criteria for industrial fire or burglary agents and replacing that license with a temporary license and related criteria for personal lines agents.
 - The criteria created for the grant of a temporary license to a personal lines agent are the same as those for life agents under s. 626.175, F.S.
- Removing the examination requirement for life agents who otherwise meet the requirements for temporary licensing and requiring that they be appointed to the post.
 - Persons operating under a temporary life agent license may only represent an insurer of the industrial or ordinary-combination class solely for the purpose of collecting premiums and servicing in-force policies. Such licensee may not directly or indirectly solicit, negotiate, or effect contracts of insurance.
- Repealing the temporary license for a customer representative which can no longer be issued because of prior changes to the insurance code. There are no active licenses of this type.

Examination Requirements

Exams are required for all Florida licensed agents or adjusters, with some exceptions.³⁸

Effect of the Bill

The bill removes the examination requirement for industrial fire insurance and burglary insurance agents as well as crop hail and multiple-peril crop insurance agents. The industrial fire license would be eliminated for new applicants and the crop hail exam is unnecessary as the agents operate in an extremely limited field of insurance and under the direction of a licensed general lines agent. The bill provides that individuals currently holding industrial fire or burglary licenses may continue to hold the license, but no new licenses of this type will be issued.

Continuing Education

Insurance agents are required to complete five hours of continuing education every two years which is specific to their license.³⁹ The training must address insurance law updates, ethics for insurance professionals, disciplinary trends, industry trends, premium discounts, determining suitability of products and services, and other similar insurance related topics that DFS determines are relevant.⁴⁰

Effect of the Bill

The bill removes limited customer representatives, motor vehicle physical damage and mechanical breakdown insurance agents as well as industrial fire and burglary agents from those who are required to complete continuing education as these are obsolete license types.

³⁷ *Id.*

³⁸ One of those exceptions applies to applicants who have been licensed as an all lines adjuster and appointed as an independent adjuster or company employee adjuster if they apply for licensure within 48 months following the date of cancellation or expiration of the prior appointment.

³⁹ S. 626.2815, F.S.

⁴⁰ *Id.*

Industrial Fire and Burglary License

An industrial fire and burglary agent license is available under current law; however there is only one insurance company with agents utilizing this license. The responsibilities of DFS and the qualifications for the license are identical to those for a personal lines agent.

Effect of the Bill

The bill allows all licensees holding a limited license as an industrial fire or burglary agent to renew their license and appointment but no new or additional licenses may be issued and a licensee whose limited license has been terminated, suspended or revoked may not have such license reinstated.

Grounds for Discretionary Refusal of Insurance Agency Licenses

DFS may refuse the grant of, suspend, or revoke an insurance agency license for several discretionary reasons. These reasons include any cause for which issuance could have been denied if it had existed and been known to DFS; use of the license to circumvent any requirements or prohibitions of the Florida Insurance Code;⁴¹ being found guilty or pleading nolo contendere to a felony relating to the business of insurance; knowingly employing an individual in a managerial or public capacity who is under an order of revocation or suspension issued by DFS; committing certain acts with a frequency so as to make the operation of the agency hazardous to the insurance buying public; and failure to take corrective action or report a violation to DFS within 30 days after an individual licensee's violation is or should have been known.⁴²

Effect of the Bill

The bill provides that the denial, suspension, revocation or other adverse administrative action taken against a license to practice or conduct any regulated profession, business or vocation by this or any other state, nation, court or agency of the United States is grounds for discretionary authority for DFS to deny, suspend, revoke, or refuse to continue the license of any insurance agency. The bill also allows a formerly disqualified applicant who has served at least half of the disqualifying period to reapply for a probationary license if they have not been found or plead guilty or nolo contendere to a crime during that time.

Miscellaneous Agent and Agency Services

Effect of the Bill

The bill makes several minor changes to agent and agency services, including:

- Removes redundant language regarding insurance agencies in administrative enforcement actions.
- Clarifies that certain references to the "act" mean the Florida Insurance Code.
- Shortens the time frame for licensure of a non-resident public adjuster from one year to six months of licensure or employment in another state, to conform it with the time frame for resident public adjusters.
- Removes the credit and character reporting for insurance agents.
- Clarifies that an exemption from examination for an all lines adjuster who is applying for reinstatement of licensure, is limited to application for reinstatement as an all lines adjuster and not an exemption from examination requirements for other license types.
- Allows notice of termination of an insurance agent's appointment to be given via email and provides that such notice is deemed given when sent.

⁴¹ The Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S. S. 624.01, F.S.

⁴² S. 626.6215, F.S.

- Requires bail bonds agents seeking reinstatement of licensure to file an application with DFS rather than an informal request.
- Conforms cross references in accordance with other changes made by the bill.

Unclaimed Property

The Florida Disposition of Unclaimed Property Act is administered and enforced by DFS's Division of Unclaimed Property. Under the Act, unclaimed property is categorized as all intangible property held, issued, or owing in the ordinary course of business that fails to be claimed by its owner for more than five years after such intangible property becomes payable or distributable.⁴³ All funds received under the Act are deposited into the Unclaimed Property Trust Fund. DFS is authorized to retain no more than \$15 million in the Trust Fund, from which DFS is required to make prompt payment of claims allowed by DFS and to pay the costs incurred in administering and enforcing the Act. All excess funds are deposited into the State School Trust Fund.

Currently, in order to claim property held by DFS, an individual must file a claim which may be done online.⁴⁴ DFS is required to process claims within 90 days.⁴⁵ There is no statute of limitations on unclaimed property and an account holder or their heirs may claim the property at any time, free of charge.⁴⁶ However, many citizens are unaware that they have unclaimed funds. This unawareness has given rise to "finders" or "claimant's representatives." These are persons who perform searches and help citizens collect funds for a fee.⁴⁷ Florida limits fees and costs imposed by claimant's representatives to 20 percent of the money that is recovered, per account.⁴⁸ Claimant's representatives must register with DFS and must be either a licensed private investigator, a Florida Certified Public Accountant, or a Florida licensed attorney.⁴⁹

Effect of the Bill

The bill allows DFS to develop a verification and disbursement process to disburse accounts valued at \$2,000 or less automatically, after verifying the identity, availability and address of the apparent owner. The bill also allows DFS to develop a verification and disbursement process to automatically disburse accounts owned by a state agency, subdivision or successor thereof; a county government or subdivision thereof; a public school district or subdivision thereof; a municipality or subdivision thereof; or a special taxing district or authority, in the state of Florida regardless of the amount of the disbursement.

The bill allows DFS to develop a process by which a claimant's representative or buyer of unclaimed property could electronically submit to DFS an electronic image of a completed claim and claims-related documents including a limited power of attorney or purchase agreement that has been manually signed by the claimant or seller. Each claim filed by a registered claimant's representative or a buyer of unclaimed property must include a statement by the claimant's representative or the buyer of unclaimed property affirming that all documents are true copies of the original and that the original documents are in the possession of the claimant's representative or buyer. All original documents must be kept in the original form, under the secure control of the claimant's representative or the buyer and must be available for inspection by DFS. DFS is directed to create rules to implement this section.

⁴³ S. 717.102, F.S.

⁴⁴ Florida Treasure Hunt, *General Questions*, <https://www.fltreasurehunt.org/UP-Web/sitePages/FAQs.jsp> (last visited Mar. 15, 2019).

⁴⁵ *Id.*

⁴⁶ Florida Treasure Hunt, *Why should I search for unclaimed property?*, <https://www.fltreasurehunt.org/UP-Web/sitePages/About.jsp> (last visited Mar. 15, 2019).

⁴⁷ S. 717.1400, F.S.

⁴⁸ S. 717.135, F.S.

⁴⁹ S. 717.1400, F.S.

DFS Property Insurance Mediation Program

Effect of the Bill

The bill requires that settlements of property insurance claims conducted through mediation to be reported to all parties by the mediator at the conclusion of the mediation.

Block Chain Technology

Blockchain is an open, distributed ledger technology that permanently records transactions between two parties without needing third-party authentication, creating an efficient process that is predicted to dramatically reduce the cost of transactions. Blockchain software is installed on computers to record and store every transaction that occurs on the computer network. The computers connected to the network can view the blockchain records and any change to the decentralized ledger is visible to all users on the network. Generally, a “task force” is created as an advisory body to study a specific problem and recommend a solution or policy alternative, and upon completion of that mission the task force terminates.

Effect of the Bill

The bill establishes the Florida Blockchain Task Force comprised of 12 government and private sector representatives to study the ways in which the state, county and municipal governments can benefit from transitioning to a blockchain-based system for recordkeeping, security, and service delivery. The task force is established within the Department of Financial Services. It will explore and develop a master plan for fostering the expansion of the blockchain industry in this state, recommend policies and state investments to help make Florida a leader in blockchain technology, and issue a report to the Legislature. The task force will develop and submit recommendations to the Governor and Legislature concerning the potential for implementation of blockchain-based systems that promote government efficiencies, better services for citizens, economic development, and safer cyber-secure interaction between government and the public.

The Department of Financial Services must provide support staff for the task force and any relevant studies, data, and materials in its possession to assist the task force in the performance of its duties. The task force terminates upon submission of the report and presentation of findings.

Luxury Transportation Network Companies

Florida law provides for certain regulations regarding taxis, limousines, and other for-hire transportation services, including minimum insurance requirements,⁵⁰ an exception to workers’ compensation insurance requirements under certain circumstances,⁵¹ and an exception to child restraint requirements.⁵² Any additional regulation of these services is established at the local level.

For counties, to the extent not inconsistent with general or special law, the legislative and governing bodies have the power to carry on county government, including the power to license and regulate limousines for hire that operate in the unincorporated areas of the county.

Municipalities have broad home rule powers authorizing them to enact legislation concerning any subject matter upon which the state Legislature may act, except:

- The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to article VIII, section 2(c) of the Florida Constitution;

⁵⁰ S. 324.032, F.S.

⁵¹ S. 440.02(15)(c)10., F.S.

⁵² S. 316.613, F.S.

- Any subject expressly prohibited by the constitution;
- Any subject expressly preempted to state or county government by the constitution or by general law; or
- Any subject preempted to a county pursuant to a county charter adopted under the authority of article VIII, sections 1(g), 3, and 6(e), of the Florida Constitution.⁵³

Since the regulation of limousines has not been expressly preempted to the state or county government, municipalities may regulate these vehicles under their broad home rule powers.

Florida law does not define the terms “limousine,” or “luxury sedan” and most of the regulations regarding limousines and luxury sedans for-hire are by local governmental entities.

For-Hire Vehicles

Section 320.01(15), F.S.,⁵⁴ defines the term “for-hire vehicle” as any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a “share-expense” basis. The statute also provides certain exceptions to the definition of for-hire vehicle.

Transportation Network Companies

Transportation Network Companies (TNCs) are entities using a digital network to connect a rider to a TNC driver, who provides prearranged rides.⁵⁵ The term “TNC vehicle” is defined as a vehicle that is used by a TNC driver to offer or provide a prearranged ride and that is owned, leased, or otherwise authorized to be used by the TNC driver; however, a taxicab, jitney, limousine, or for-hire vehicle is not a TNC vehicle.⁵⁶ A TNC driver is not required to register a TNC vehicle as a commercial motor vehicle or a for-hire vehicle.⁵⁷

In 2017, the Legislature established a regulatory framework for TNCs and preempted to the state the regulation of TNCs,⁵⁸ and prohibiting a local governmental entity from:

- Imposing a tax on, or require a license for, a TNC, a TNC driver, or a TNC vehicle if such tax or license relates to providing prearranged rides;
- Subjecting a TNC, a TNC driver, or a TNC vehicle to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision; or
- Requiring a TNC or a TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity’s jurisdiction.

However, an airport or seaport was not prohibited from charging reasonable pickup fees consistent with any pickup fees charged to taxicab companies at that airport or seaport for their use of the airport’s or seaport’s facilities or prohibit the airport or seaport from designating locations for staging, pickup, and other similar operations at the airport or seaport.⁵⁹

A TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service.

⁵³ S. 166.021(3), F.S.

⁵⁴ Chapter 320, F.S., relates to motor vehicle licenses. This definition is for the purpose of motor vehicle registrations.

⁵⁵ S. 627.748(1)(e), F.S.

⁵⁶ S. 627.748(1)(g), F.S.

⁵⁷ S. 627.748(2), F.S.

⁵⁸ Ch. 2017-12, Laws of Fla.

⁵⁹ S. 627.748(15), F.S.

The TNC statute requires fare transparency,⁶⁰ a TNC's digital network display a photograph of the TNC driver and the license plate number of the TNC vehicle,⁶¹ and an electronic receipt.⁶² The statute prohibits TNC drivers from accepting rides for compensation outside of a digital network and prohibits a TNC driver from accepting street hails.⁶³

The TNC statute also provides minimum insurance requirements for TNCs and TNC drivers, including minimum liability coverages, personal injury protection coverages, and uninsured and underinsured vehicle coverage. The minimum coverage required is dependent on whether or not the TNC driver is logged into the TNC application or is logged in and connected to a rider for a prearranged ride. This coverage may come from the TNC driver, the TNC, or a combination of both.⁶⁴ The statute also requires certain insurance-related disclosures by TNCs to its drivers and authorizes certain insurance exclusions.⁶⁵

TNC drivers are considered independent contractors if specified conditions are met including the TNC not prescribing the hours worked, not prohibiting a TNC driver from driving for other TNCs, not restricting a TNC driver from other employment, and the TNC and TNC driver agreeing in writing that the TNC driver is an independent contractor.⁶⁶

TNCs are required to implement a zero tolerance drug and alcohol policy regarding TNC drivers and provide notice of this policy. TNCs are also required to have procedures for riders to file complaints against TNC drivers they suspect of driving under the influence, and the TNC must suspend the driver during its investigation.⁶⁷

TNCs are required to collect specified information on TNC drivers, and conduct, or have a third-party conduct a national criminal background check, including a search of the National Sex Offender Public Website, and a driving history report.⁶⁸ This background check must be conducted every three years.⁶⁹ The statute prohibits a TNC from allowing an individual to act as a TNC driver if he or she does not meet certain requirements including in the last five years having been convicted of a felony, certain driving infractions, of being a match in the National Sex Offender Public Website.⁷⁰ TNCs are also required to have nondiscrimination and accessibility requirements,⁷¹ and the TNC has certain record retention requirements.⁷²

By January 1, of every other year, TNCs must submit to DFS an examination report prepared by an independent certified public accountant verifying that the TNC has maintained compliance with insurance disclosure requirements and driver requirements on a continual basis for the preceding two years.⁷³ The statute also provides an enforcement mechanism for noncompliance.⁷⁴

⁶⁰ S. 627.748(4), F.S.

⁶¹ S. 627.748(5), F.S.

⁶² S. 627.748(6), F.S.

⁶³ S. 627.748(12)(a) and (b), F.S.

⁶⁴ S. 627.748(7), F.S.

⁶⁵ S. 627.748(8), F.S.

⁶⁶ S. 627.748(9), F.S.

⁶⁷ S. 627.748(10), F.S.

⁶⁸ S. 627.748(11)(a), F.S.

⁶⁹ S. 627.748(11)(b), F.S.

⁷⁰ S. 627.748(11)(d), F.S.

⁷¹ S. 627.748(13), F.S.

⁷² S. 627.748(14), F.S.

⁷³ S. 627.748(11)(e), F.S.

⁷⁴ S. 627.748(11)(f), F.S.

Effect of the Bill

The bill amends the law regulating TNCs⁷⁵ to allow additional entities to operate as a TNC using any for-hire vehicles, except taxi cabs. Such entities will operate as a “luxury ground transportation network company” or “luxury ground TNC.”⁷⁶ The luxury ground TNC must file a written notification with the DFS and comply with all requirements of the TNC law, except as follows:

- The insurance requirements of the TNC law do not apply to luxury ground TNCs; rather, the insurance requirements applicable to for-hire vehicles will apply.⁷⁷
- The disclosure requirements applicable to TNCs do not apply to luxury ground TNCs.
- An private passenger motor vehicle insurer’s authority to exclude coverage of a TNC vehicle during operation of the vehicle as a TNC vehicle does not apply to luxury ground TNC; nor does the insurer’s relief from their duty to defend apply to luxury ground TNCs.
- A luxury ground TNC is not required to provide login and ride data in a claims coverage investigation.
- To the extent that an entity owns and operates both a TNC and a luxury ground TNC regulated under the TNC statute, the report to DFS applies exclusively to the TNC and not to the luxury ground TNC.

To the extent that a luxury ground TNC elects to be regulated pursuant to the TNC statute, a local governmental entity may not:

- Require the luxury ground TNCs, or drivers, or for hire-vehicles affiliated with the luxury ground TNC to pay a tax or hold a license, if such tax or license relates to providing riders through the luxury ground TNC.
- Subject the luxury ground TNC, or drivers, for for-hire vehicles affiliates with such luxury ground TNC to any rate, entry, operation, or other requirement except that insurance requirements applicable to for-hire vehicles, including requirements applicable to limousines or luxury sedans or the owners or operators of such vehicles remains in effect; or
- Require the luxury ground TNC, or drivers or for hire vehicles affiliated with such luxury ground TNC, to obtain a business license or any other type of similar authorization to operate within the local governmental entity’s jurisdiction.

An airport or seaport is not prohibited from requiring permits for for-hire vehicles and charging reasonable pick-up fees for for-hire vehicles.

B. SECTION DIRECTORY:

- Section 1** Amends s. 17.56, F.S., relating to Division of Treasury to maintain all warrants paid.
- Section 2** Amends s. 497.263, F.S., relating to cemetery companies; license required; licensure requirements and procedures.
- Section 3** Amends s. 497.266, F.S., relating to care and maintenance trust fund; remedy of department for noncompliance.

⁷⁵ S. 627.748, F.S.

⁷⁶ While the bill uses the term “luxury ground TNC” and includes “limousines” and “luxury sedans” within the term “luxury ground TNC,” there is no “luxury” requirement for the vehicles used. The only specific condition is that the term “luxury ground TNC” excludes taxi cabs.

⁷⁷ S. 324.032(1)(a), F.S., provides that for-hire motor vehicles must maintain financial responsibility for \$125,000, because of bodily injury to, or death of, one person in any one crash, \$250,000 because of bodily injury to, or death of, two or more persons in any one crash, and \$50,000 because of injury to, or destruction of, property of others in any one crash. This is commonly referred to as \$125,000/\$250,000/\$50,000 coverage. By contrast, a TNC and TNC driver are responsible for \$10,000/\$20,000/\$10,000 when not logged into the TNC application (driver responsibility), \$50,000/\$100,000/\$25,000 when logged into the application, but not connected to a TNC rider (joint driver and TNC responsibility) and \$1,000,000 combined coverage when logged into the application and connected to a TNC rider (TNC responsibility).

- Section 4** Amends s. 497.376, F.S., relating to license as funeral director and embalmer permitted.
- Section 5** Amends s. 497.377, F.S., relating to combination funeral director and embalmers; internships.
- Section 6** Amends s. 497.380, F.S., relating to funeral establishment; licensure; display of license.
- Section 7** Amends s. 497.385, F.S., relating to removal services; refrigeration facilities; centralized embalming facilities.
- Section 8** Amends s. 497.452, F.S., relating to preneed license required.
- Section 9** Amends s. 497.453, F.S., relating to application for preneed license, procedures and criteria; renewal; reports.
- Section 10** Amends s. 497.458, F.S., relating to disposition of proceeds received on contracts.
- Section 11** Amends s. 497.459, F.S., relating to cancellation of, or default on, preneed contracts; required notice.
- Section 12** Amends s. 497.464, F.S., relating to alternative preneed contracts.
- Section 13** Amends s. 497.604, F.S., relating to direct disposal establishments, license required; licensing procedures and criteria; license renewal; regulation; display of license.
- Section 14** Amends s. 497.606, F.S., relating to cinerator facility, licensure required; licensing procedures and criteria; license renewal; regulation.
- Section 15** Amends s. 626.175, F.S., relating to temporary licensing.
- Section 16** Amends s. 626.207, F.S., relating to disqualification of applicants and licensees; penalties against licensees; rulemaking authority.
- Section 17** Amends s. 626.221, F.S., relating to examination requirement; exemptions.
- Section 18** Amends s. 626.2815, F.S., relating to continuing education requirements.
- Section 19** Amends s. 626.321, F.S., relating to limited licenses.
- Section 20** Amends s. 626.471, F.S., relating to termination of appointment.
- Section 21** Amends s. 626.536, F.S., relating to reporting of administrative actions.
- Section 22** Amends s. 626.6215, F.S., relating to grounds for discretionary refusal, suspension or revocation of insurance agency license.
- Section 23** Amends s. 626.729, F.S., relating to “industrial fire insurance” defined.
- Section 24** Amends s. 626.8437, F.S., relating to grounds for denial, suspension, revocation, or refusal to renew license or appointment.
- Section 25** Amends s. 626.844, F.S., relating to grounds for discretionary refusal, suspension, or revocation of license or appointment.
- Section 26** Amends s. 626.8732, F.S., relating to nonresident public adjuster’s qualifications, bond.
- Section 27** Amends s. 627.7015, F.S., relating to alternative procedure for resolution of disputed property insurance claims.
- Section 28** Amends s. 627.748, F.S., relating to transportation network companies.
- Section 29** Amends s. 633.218, F.S., relating to inspections of state buildings and premises; tests of firesafety equipment; building plans to be approved.
- Section 30** Amends s. 633.306, F.S., relating to requirements for installation, inspection, and maintenance of fire suppression equipment.
- Section 31** Amends s. 633.312, F.S., relating to inspection of fire control systems, fire hydrants, and fire protection systems.

- Section 32** Amends s. 633.520, F.S., relating to safety; firefighter employer responsibilities.
- Section 33** Amends s. 648.49, F.S., relating to duration of suspension or revocation.
- Section 34** Amends s. 717.124, F.S., relating to unclaimed property claims.
- Section 35** Repeals s. 626.521, F.S., relating to credit and character reports.
- Section 36** Repeals s. 626.7355, F.S., relating to temporary license as a customer representative pending examination.
- Section 37** Amends s. 626.022, F.S., relating to scope of part.
- Section 38** Amends s. 626.025, F.S., relating to consumer protections.
- Section 39** Amends s. 633.216, F.S., relating to inspection of buildings and equipment; orders; firesafety inspection training requirements; certification; disciplinary action.
- Section 40** Establishes the Florida Blockchain Task Force at DFS, identifies the membership of the task force, requires how often members meet, defines the scope of study for the task force, and provides requirements for a master plan and final report.
- Section 41** Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
Local government entities will more readily have access to unclaimed property funding.
- 2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Death care providers could save money on licensing fees because they will be able to supervise more than one facility. Claimant's representatives for unclaimed property could see a reduction in business.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision:
Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to

raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

3. RULE-MAKING AUTHORITY:

- The DFS is directed to adopt rules to:
 - Create a form and procedures for annual trust reports for preneed licensees under the Division of Funeral, Cemetery and Consumer Services;
 - Create a procedure for automatic disposition of unclaimed property; and
 - Develop a process by which a registered claimant's representative or buyer of unclaimed property can electronically submit claims and claims-related documents.
- The SFM is directed to adopt rules to:
 - Require standardized procedures for building inspection reports;
 - Establish submission procedures for uniform inspection reports; and
 - Determine best management practices for cancer prevention.

4. DRAFTING ISSUES OR OTHER COMMENTS:

Luxury Ground TNCs - Section 28

- The definition of "for-hire vehicles" is broad and is located in ch. 320, F.S., which provides for how these vehicles are registered. The bill provides that for-hire vehicles includes limousines and luxury sedans; however, those terms are not defined. Therefore, it is not clear how broadly this provision will apply.
- The business models of current TNCs and those of companies providing luxury ground transportation may differ. Therefore, the regulations, and how they apply to the luxury ground TNC model may not be clear.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2019, the Insurance & Banking Subcommittee considered a proposed committee substitute and two amendments, and reported the bill favorably as a committee substitute. The proposed committee substitute as amended made the following changes to the bill:

- Added the revised requirements for establishment or facility licensees in charge to each subsection related to licensees in charge rather than creating a new section for the requirements. The revised requirements apply to:
 - Funeral Directors;
 - Embalmers; and
 - Direct Disposers.
- Removed the term "state or national" from sections related to the permissible activities for trust companies;
- Added a section of SB 1704 which provided that equipment installed for fire protection purposes shall use only components and parts specified by the manufacturer or listed as equal parts by a nationally recognized testing laboratory;
- Conformed the section related to the inspection of fire control systems, fire hydrants, and fire protection systems to SB 1704;
- Added a section of SB 1704 related to reporting the outcome of mediation to the parties.

On April 1, 2019, the Government Operations & Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed the section of the bill which increased the amount retained in the Unclaimed Property Trust Fund before the balance is transferred to the State School Trust Fund from \$15 million to \$30 million.

On April 18, 2019, the Commerce Committee considered the bill, adopted five amendments and reported the bill favorably as a committee substitute. The following changes were made to the bill:

Division of State Fire Marshal

- Clarified language related to fire inspection reports by conforming to the language in CS/CS/SB 1704.

Division of Agent and Agency Services

- Added a section allowing a formerly disqualified licensee to apply for probationary licensure after half of the disqualifying period has passed, provided they have not been found or plead guilty or nolo contendere to a crime during that time.
- Provided that an email notice of termination of an insurance agent appointment is considered to be given when sent.
- Changed from one year to six months, one occurrence of the experience requirement for a non-resident public adjuster applicant to conform with other changes in the bill.
- Made minor changes to two sections to conform to CS/CS/SB 1704.

DFS Property Insurance Mediation Program

- Changed a mediation reporting requirement to require the mediator to report the results rather than the insurer and requires the report to be provided to the parties at the conclusion of the mediation instead of within ten days of the conclusion.

Division of Funeral, Cemetery and Consumer Services

- Required a notice to be sent to a purchaser of preneed funeral services when the preneed services have not been provided and 50 years have passed since the purchase was made, the beneficiary of the services has attained 105 years of age, or older, or the beneficiary's social security number appears in the Social Security Administration's Death Master File, whichever occurs first.

Florida Blockchain Taskforce

- Created a 12-member Florida Blockchain Task Force within the Department of Financial Services to explore and develop a master plan for fostering the expansion of the blockchain industry in the state and to recommend policies and state investments related to blockchain technology.

Luxury Ground Transportation Network Companies

- Defined luxury ground transportation network company (TNC) and provided for the operation of for-hire vehicles, including limousines and luxury sedans, excluding taxicabs.
- Allowed a luxury ground TNC, upon written notification to the Department of Financial Services, to elect to be regulated under the TNC statute as amended by the bill.
- Prohibited local governments from requiring luxury ground TNC's to pay a tax, hold a license, comply with any rate, entry, operation or other requirement or obtain a business license or other authorization to operate in the county.
- Permitted an airport or seaport to require permits and charge reasonable pick-up fees for for-hire vehicles, including those operated by a luxury ground TNC.

This analysis has been updated to reflect the committee substitute.