

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS  
FINAL BILL 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	Pirrello	Luczynski
2) Government Operations & Technology Appropriations Subcommittee	12 Y, 0 N	Helping	Topp
3) Commerce Committee	22 Y, 0 N	Pirrello	Hamon
<b>FINAL HOUSE FLOOR ACTION:</b> 112 <b>Y's</b> 2 <b>N's</b>		<b>GOVERNOR'S ACTION:</b> Approved	

**SUMMARY ANALYSIS**

CS/CS/CS/HB 1393 passed the House on April 25, 2019. The bill was amended in the Senate on April 29, 2019 and returned to the House. The House concurred in the Senate amendments and subsequently passed the bill as amended on May 1, 2019.

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 2 facilities, provided they are within a specified distance from one another;
- Authorizing out of state trust companies to service a funeral/cemetery's care and maintenance trust;
- 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; and 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;
- 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);
- Providing a uniform fire alarm permit for installing, replacing, or repairing a fire alarm system;
- Directing SFM to develop employer best practices for firefighter cancer prevention;
- 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; and 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; and
- Creating the Florida Blockchain Task Force.

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*.

The bill was approved by the Governor on June 25, 2019, ch. 2019-140, L.O.F., and will become effective July 1, 2019, except as otherwise provided.

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

**STORAGE NAME:** h1393z1.IBS.DOCX

**DATE:** 6/27/2019

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF 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 Florida<sup>1</sup> 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.<sup>2</sup>

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;<sup>3</sup>
- 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 of Treasury keeps a record of the warrants and other orders of the CFO.<sup>4</sup> The division also pays warrants and accounts for all state funds and securities.<sup>5</sup> Under current law, the division 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.<sup>6</sup> 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.<sup>7</sup>

#### 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.

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<sup>1</sup> Art. IV, s. 4, Fla. Const.

<sup>2</sup> S. 20.121, F.S.

<sup>3</sup> 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.

<sup>4</sup> S. 17.555, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> S. 17.56, F.S.

<sup>7</sup> 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:<sup>8</sup>

- 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 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.<sup>9</sup> Licensees are regulated as both funeral directors and embalmers.<sup>10</sup> 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.<sup>11</sup>

### 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

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<sup>8</sup> 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).

<sup>9</sup> S. 497.376, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> S. 497.368(2)(b), F.S.; S. 497.373(2)(c), F.S.

internship before expiration of the license is due to illness, personal injury or other substantial hardship beyond the 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.<sup>12</sup> 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 two 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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup>

### Effect of the Bill

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

### *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

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<sup>12</sup> 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.

<sup>13</sup> S. 497.263, F.S.

<sup>14</sup> S. 497.262, F.S.

<sup>15</sup> 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.

<sup>16</sup> S. 497.263, F.S.

arrangement for a preneed contract unless they have a valid preneed license.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

### 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 regarding any conditions liable to cause fire or endanger life.<sup>20</sup> State-owned buildings include private correctional facilities.<sup>21</sup> Whether a location is state-owned or leased is determined by consulting the U.S. National Grid (USNG) Coordinate System.<sup>22</sup> 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

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<sup>17</sup> S. 497.452, F.S.

<sup>18</sup> *Id.*

<sup>19</sup> S. 497.453(8), F.S.

<sup>20</sup> S. 633.218, F.S.

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

<sup>22</sup> *Id.*

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.<sup>23</sup>

### 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.<sup>24</sup> Inspections may be conducted by independent contractors.<sup>25</sup> Contractors must provide inspection reports to the property owner and the local authority having jurisdiction over the area.<sup>26</sup>

### 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. The 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 the SFM may not require a contractor to submit information contained within the detailed inspection report unless the 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.

### *Installation and Repair of Fire Alarms*

The State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules in ch. 69A-60, F.A.C.

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

<sup>24</sup> S. 633.312, F.S.

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

<sup>26</sup> *Id.*

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act” (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.<sup>27</sup> Every local government must enforce the Florida Building Code and issue building permits.<sup>28</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.<sup>29</sup> This includes installing, replacing or repairing a fire alarm.<sup>30</sup>

To obtain a permit, an applicant must complete an application for the proposed work on the form furnished by the local government. The forms may be in a format prescribed by the authority issuing the permit and may include any information required by the authority issuing the permit, but at a minimum, the application must include the following information:

- The name and address of the owner of the property;
- The name and address of the contractor;
- A description sufficient to identify the property to be improved; and
- The number or identifying symbol assigned to the building permit by the issuing authority.<sup>31</sup>

### Effect of the Bill

The bill creates a Uniform Fire Alarm Permit Application which contractors must file with the local enforcement agency before installing, replacing or repairing an alarm system. The Uniform Fire Alarm Permit Application must be submitted with any drawing, plan, and supporting documentation required by the local enforcement agency for a project which requires plan review or a fire alarm permit. Owners, contractors and their representatives or agents may submit the application electronically or by facsimile. The bill provides a form for the application.

### *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.<sup>32</sup>

### 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**

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<sup>27</sup> See s. 553.72(1), F.S.

<sup>28</sup> Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

<sup>29</sup> See ss. 125.56(4)(a), 553.79(1), F.S.

<sup>30</sup> Email from Thomas Campbell, Executive Director of the Florida Building Commission, Permit for Fire Alarm Systems, (April 17, 2019).

<sup>31</sup> S. 713.135, F.S.

<sup>32</sup> S. 633.520, F.S.

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.<sup>33</sup> 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.<sup>34</sup> 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.<sup>35</sup> 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.<sup>36</sup> 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.<sup>37</sup>

### *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.<sup>38</sup> 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.<sup>39</sup>

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.<sup>40</sup> The temporary license shall only be granted if no other individual connected with the agent's business is licensed as a general lines agent.<sup>41</sup>

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.<sup>42</sup>

### 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.

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<sup>33</sup> Division of Insurance Agent and Agency Services, <https://myfloridacfo.com/Division/Agents/> (last visited Mar. 12, 2019).

<sup>34</sup> S. 626.112, F.S.

<sup>35</sup> S. 626.015, F.S.

<sup>36</sup> S. 626.015(7), F.S.

<sup>37</sup> S. 626.015(17), F.S.

<sup>38</sup> S. 626.175(1)(a), F.S.

<sup>39</sup> S. 626.175(1)(b), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> S. 626.175(1)(c), 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 Florida licensed agents or adjusters, with some exceptions.<sup>43</sup>

### 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.<sup>44</sup> 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.<sup>45</sup>

### 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.

### *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*

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<sup>43</sup> 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.

<sup>44</sup> S. 626.2815, F.S.

<sup>45</sup> *Id.*

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;<sup>46</sup> 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.<sup>47</sup>

### 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.
- 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.<sup>48</sup> 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

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<sup>46</sup> The Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S. S. 624.01, F.S.

<sup>47</sup> S. 626.6215, F.S.

<sup>48</sup> S. 717.102, F.S.

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.<sup>49</sup> DFS is required to process claims within 90 days.<sup>50</sup> 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.<sup>51</sup> 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.<sup>52</sup> Florida limits fees and costs imposed by claimant’s representatives to 20 percent of the money that is recovered, per account.<sup>53</sup> 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.<sup>54</sup>

### 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.

## **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.

## **Blockchain 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,

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<sup>49</sup> S. 717.124(7), F.S.

<sup>50</sup> S. 717.124(1)(c), F.S.

<sup>51</sup> Florida Treasure Hunt, *Why should I search for unclaimed property?*, <https://www.fltreasurehunt.org/UP-Web/sitePages/About.jsp> (last visited Mar. 15, 2019).

<sup>52</sup> S. 717.1400, F.S.

<sup>53</sup> S. 717.135, F.S.

<sup>54</sup> S. 717.1400, F.S.

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 13 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 DFS. 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.

DFS 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.

## **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.