

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1077 Department of Financial Services  
**SPONSOR(S):** Commerce Committee, Insurance & Banking Subcommittee, LaMarca  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1404

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Salter	Cooper
2) Commerce Committee	21 Y, 1 N, As CS	Salter	Hamon

### SUMMARY ANALYSIS

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

- **Division of Public Assistance Fraud (DPAF):** Current law does not list DPAF as a criminal justice agency. The bill establishes DPAF as a criminal justice agency, improving DFS's investigation and enforcement capabilities.
- **State Risk Management:** The bill prohibits employees who fall under the State Risk Management Trust Fund from engaging in retaliatory conduct against a sexual harassment victim and provides penalties for related violations.
- **Funeral, Cemetery, and Consumer Services (FCCS):** The bill decreases the number of nominations of the Board of FCCS per vacancy and clarifies other board member requirements. Current law does not allow disqualification for licensure based on a criminal record. The bill creates a permanent bar to licensure based on certain crimes and disqualifying periods for various felonies and misdemeanors. The bill prohibits specific unlicensed funeral activity and increases the penalty to a third-degree felony.
- **Explosives:** A two-component explosive is currently defined as having a detonator that is a No.6 blasting cap. The bill changes this distinction to "any detonator" to fall in line with current practice.
- **Notice to Purchaser:** The bill revises the provisions concerning notice to a purchaser of a preneed contract and changes how funds are distributed if the purchaser does not respond to written notice from the licensee.
- **Uniform Fire Alarm Permit Application:** Under current law, contractors are required to apply for, and receive, a permit prior to installing, replacing, or repairing a fire alarm system. The bill expedites repairs of systems that have previously been permitted by the local enforcement agency by allowing repair to begin after filing an application.
- **Doorstep and Refuse Recycling Collection:** The bill extends the provision's current expiration date.
- **Fire Sprinkler Systems:** Current law allows different contractors to design or alter fire protection systems, if it does not affect more than 49 sprinklers. The bill eliminates a contractor designation and increases the number of sprinklers that can be relocated or deleted through alteration.
- **Influencing a Firesafety Inspector:** The bill prohibits any person from influencing a firesafety inspector into violating the Fire Prevention Code, rules adopted by the State Fire Marshal, or any provision of ch. 631, F.S., or from offering compensation related to such violations. It also prohibits a firesafety inspector from knowingly accepting an attempt to improperly influence the performance of his or her duties.
- **State Fire College Training:** In order to receive a license to install or maintain a fire protection system, an applicant must complete a specific course offered by the State Fire College. The bill requires a written and practical part of the course, and requires it be offered at the State Fire College.
- **Volunteer Firefighter Service:** The bill allows a transitioning firefighter to act in the same capacity as when they were a volunteer firefighter, if under supervision of a career firefighter and the transition period does not go beyond one year.
- **False Personation:** Currently, impersonation of an officer and a fire or arson investigator of DFS is prohibited. The bill now prohibits impersonation of any personnel or representative of the Division of Investigative and Forensic Services.
- **Continuing Education:** The bill revises the continuing education hours required for insurance agents.
- **Florida Blockchain Task Force:** The bill renames the Florida Blockchain Task Force, incorporates financial technology, and extends the report date from March 21, 2020, to January 31, 2021.

The bill has no fiscal impact on state or local government revenue or expenditures. It has no known positive or negative economic impacts on the private sector.

Except as otherwise expressly provided, the bill has an effective date of July 1, 2020.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The Department of Financial Services (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 (DIFS);
- Public Assistance Fraud (DPAF);
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property;
- Workers' Compensation;
- Administration; and the
- Office of Insurance Consumer Advocate.

#### ***Division of Public Assistance Fraud***

When DIFS was created in 2016, DPAF was not designated as a criminal justice agency, limiting access to information within criminal records systems. Under current law, "criminal justice agency" means a court,<sup>1</sup> the Department of Law Enforcement,<sup>2</sup> the Department of Juvenile Justice,<sup>3</sup> the protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect,<sup>4</sup> and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.<sup>5</sup> DPAF currently operates, in part, as a criminal justice agency. However, current statute does not appropriately reflect this.

#### Effect of the Bill

The bill establishes DPAF as a criminal justice agency, permitting broader access to criminal records. The effect of this change should improve the department's investigation and enforcement capabilities.

#### ***State Risk Management***

The State Risk Management Trust Fund (Fund) is a self-insurance fund, administered by DFS, along with a program of risk management.<sup>6</sup> The Fund provides various types of insurance to all departments of the State of Florida, including their employees, agents, and volunteers.<sup>7</sup> Each entity covered by the Fund must develop and implement a loss prevention program,<sup>8</sup> provide for regular and periodic facility and equipment inspections,<sup>9</sup> investigate job-related employee accidents,<sup>10</sup> and establish a program to

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<sup>1</sup> S. 943.045 (11)(a), F.S.

<sup>2</sup> S. 943.045 (11)(b), F.S.

<sup>3</sup> S. 943.045 (11)(c), F.S.

<sup>4</sup> S. 943.045 (11)(d), F.S.

<sup>5</sup> S. 943.045 (11)(e), F.S.

<sup>6</sup> S. 284.30, F.S.

<sup>7</sup> S. 284.31, F.S.

<sup>8</sup> S. 284.50(1)(a), F.S.

<sup>9</sup> S. 284.50(1)(b), F.S.

<sup>10</sup> S. 284.50(1)(c), F.S.

promote increased safety awareness among employees.<sup>11</sup> Currently, there are no protections for individuals working for an entity covered by the Fund, who have been a victim of sexual harassment in the workplace.

### Effect of the Bill

The bill defines a sexual harassment victim as an individual employed with or being considered for employment with an entity participating in the Fund, who becomes a victim of workplace sexual harassment within the entity. The bill prohibits individuals working for an entity covered by the Fund from engaging in retaliatory conduct, of any kind, toward a sexual harassment victim. It also prohibits the willful and knowing distribution of personal identifying information of a sexual harassment victim, which includes the victim's name and his or her:

- Home address;
- Cell phone number;
- E-mail address;
- Social media account or URL; or
- Any other information that could reasonably be used to identify, locate, or contact the alleged victim.

Personal identifying information of a victim may not be distributed to any party other than a government entity, in furtherance of its official duties, or pursuant to a court order. Any violation results in a misdemeanor, punishable as provided in s. 775.082, F.S.

### ***Board of Funeral, Cemetery, and Consumer Services***

The Board of Funeral, Cemetery, and Consumer Services (The Board) consists of ten members, nine of which are nominated by the Chief Financial Officer (CFO), confirmed by the Senate, and appointed by the Governor.<sup>12</sup> The tenth member is the State Health Officer or his or her designee.<sup>13</sup> Currently, the CFO is required to nominate three persons for each vacancy on the board. Often times, the CFO does not receive three or more applications for any given vacancy. Additionally, one Board member must be a Certified Public Accountant (CPA) not affiliated with the death care industry. This position has been vacant since September 2017.<sup>14</sup>

In order for the Board to conduct business, a quorum must be present. A quorum currently means the presence of six board members. A quorum has proved difficult to meet due to vacant positions, member absences, and member recusals. Current law requires staggered appointments of initial Board members. DFS is required to adopt rules establishing forms and procedures for application for membership on the Board.

### Effect of the Bill

The bill amends the requirement of three nominees per vacancy to an option of one to three nominations. Two members, instead of three, would still be required to be residents of the state, to have never been licensed as funeral directors or embalmers, and to have no connection to the death care industry. The CPA qualification of having never been licensed as a funeral director or embalmer remains, while the CPA would be allowed to be associated with the death care industry.

The bill also removes the provision requiring staggered appointments following expiration of the terms of initial board members. Because staggered terms are already in effect, the provision no longer is necessary. The bill eliminates the delegated rulemaking authority to DFS for establishing forms by which persons can apply for membership. Because the Governor makes the appointments, that delegation is unnecessary.

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<sup>11</sup> S. 284.50(1)(d), F.S.

<sup>12</sup> S. 497.101 (1), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Department of Financial Services, Agency Analysis of House Bill 1077, p.2 (Jan. 14, 2020).

## ***Disqualification and Penalties of Applicants and Licensees***

Individuals, or the individual on behalf of an entity, applying for licensure or relicensure under ch. 497, F.S., must disclose their criminal records in accordance with s. 497.412, F.S. Applicants must disclose any felony or misdemeanor directly or indirectly relating to the death care industry, no matter when it was committed.<sup>15</sup> Felonies unrelated to the death care industry and committed within the 20 years immediately preceding the application under ch. 497, F.S., must be disclosed.<sup>16</sup> Misdemeanors unrelated to the death care industry and committed within the five years immediately preceding the application under ch. 497, F.S., must also be disclosed.<sup>17</sup> Chapter 497, F.S., currently lacks any ability to disqualify an application for licensure on the basis of an applicant's criminal record.

### **Effect of the Bill**

The bill creates a permanent bar from licensure under certain circumstances. An applicant can be permanently barred from licensure under ch. 497, F.S., if the applicant has been found guilty of or has pleaded guilty or nolo contendere<sup>18</sup> to any of the following, regardless of adjudication:

- (a) A felony of the first degree,
- (b) A capital felony,
- (c) A felony money laundering offense, or
- (d) A felony embezzlement.

The bill also creates disqualification periods for various felonies and misdemeanors. All felonies involving moral turpitude<sup>19</sup> that do not fall under the permanent bar are subject to a ten-year disqualifying period. All felonies that do not fall under the permanent bar and that do not involve moral turpitude are subject to a five-year disqualifying period. All misdemeanors directly related to the financial services business<sup>20</sup> are subject to a five-year disqualifying period. A disqualifying period begins upon an applicant's final release from criminal supervision or upon completion of a criminal sentence. A license may not be issued until all related fines, court costs & fees, and court-ordered restitution have been paid.

Once a disqualifying period has elapsed, the applicant carries the burden of showing that they have been rehabilitated, they do not pose a risk to the public, they are fit and trustworthy to engage in business regulated by ch. 497, F.S., and they are otherwise qualified. A grant of a pardon or the restoration of civil rights pursuant to ch. 940, F.S., and s. 8 Art. IV of the State Constitution, with respect to a finding of guilt or a plea, does not bar an applicant from licensure.

The bill gives rulemaking authority to the Board for purposes of implementation. The rules must include additional disqualifying periods upon a finding of the commitment of multiple crimes, and may include other factors reasonably related to the applicant's criminal history. The rules must provide for mitigating and aggravating factors. Mitigating factors must not result in a disqualifying period of less than five years. Mitigating factors will not apply to the five year disqualifying period for all felonies unrelated to both the death care industry and moral turpitude or the five year disqualifying period for all misdemeanors directly related to the financial services business.

The Board may grant an exemption from disqualification due to an applicant's criminal record if the applicant has paid in full any fee, fine, fund, lien, civil judgment, restitution, or cost of prosecution imposed by the court as part of a judgment and sentence relating to the disqualifying offense. Additionally, five years must have elapsed since the applicant has completed or been lawfully released

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<sup>15</sup> S. 497.412(10)(c)1., F.S.

<sup>16</sup> S. 497.412(10)(c)2., F.S.

<sup>17</sup> S. 497.412(10)(c)3., F.S.

<sup>18</sup> A nolo contendere plea is a plea by which a defendant in a criminal prosecution accepts conviction but does not plead or admit guilt. *Lexico English Dictionary*, [https://www.lexico.com/definition/nolo\\_contendere](https://www.lexico.com/definition/nolo_contendere) (last visited Feb. 10, 2020).

<sup>19</sup> "A crime involves moral turpitude if it is an act of baseness, vileness, or depravity in the private and social duties which a person owes to others and to society in general." 16 Fla. Jur. 2d Criminal Law – Substantive Principles/Offenses §6.

<sup>20</sup> The bill defines financial services business as "any financial activity regulated by the Department of Financial Services, the Office of Insurance Regulation, or the Office of Financial Regulation."

from confinement, supervision, or nonmonetary condition imposed by a court for the disqualifying offense. In order for the Board to grant an exemption, an applicant must clearly and convincingly demonstrate that he or she would not pose a risk to persons or property if granted a license under ch. 497, F.S.

Evidence presented to the Board by an applicant for a potential exemption must include the following:

1. Facts and circumstances surrounding the disqualifying offense,
2. The time that has elapsed since the offense,
3. The nature of the offense and the harm caused to the victim(s),
4. The applicant's history before and after the offense, and
5. Any other evidence or circumstances indicating that the applicant will not present a danger if licensed or certified.

The Board holds discretion whether to grant or deny an exemption. The Board's decision is subject to ch. 120, F.S., the Administrative Procedure Act. A formal proceeding under s. 120.57(1)<sup>21</sup> is available to an applicant only if the applicant disputes material facts that the DLE relied upon in order to reach a decision.

### ***Licensing Background Checks***

Applicants for licensure under ch. 497, F.S., relating to Funeral, Cemetery, and Consumer Services, must provide certified true copies of any crime committed in any jurisdiction, within the 10 years preceding their application, in order to deem the application complete.<sup>22</sup> Currently, regardless of adjudication, disclosure of the following crimes is required:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;<sup>23</sup>
- Any other felony that was committed within the 20 years immediately preceding the application under this chapter;<sup>24</sup> and
- Any other misdemeanor that was committed within the five years preceding the application under this chapter.<sup>25</sup>

### **Effect of the Bill**

The bill requires certified true copies of any crime committed in any jurisdiction in order to deem an application complete, regardless of how many years have passed. The bill requires disclosure of all felonies, regardless of when committed and regardless of adjudication. It also requires disclosure of any misdemeanor directly or indirectly related to the financial services business,<sup>26</sup> no matter when committed.

### ***Violations by Unlicensed Persons***

Chapter 497, F.S., requires a license for specific death care industry practices, although it does not include specific examples of what is considered a licensed or unlicensed practice. Current law provides a penalty of a second-degree misdemeanor for individuals who engage in activity requiring licensure without possessing a license.<sup>27</sup>

### **Effect of the Bill**

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<sup>21</sup> This section lays out additional procedures applicable to hearings involving disputed issues of material fact under the Administrative Procedure Act.

<sup>22</sup> D. 497.142(9), F.S.

<sup>23</sup> S. 497.142(10)(c)1., F.S.

<sup>24</sup> S. 497.142(10)(c)2., F.S.

<sup>25</sup> S. 497.142(10)(c)3., F.S.

<sup>26</sup> The bill defines financial services business as "any financial activity regulated by the Department of Financial Services, the Office of Insurance Regulation, or the Office of Financial Regulation."

<sup>27</sup> S. 497.159(6), F.S.

The bill specifies that a person may not be, act as, or advertise himself or herself to be a funeral director, embalmer, or direct disposer unless he or she is licensed by DFS. The bill also specifies that a person may not be, act as, or advertise himself or herself as a preneed<sup>28</sup> sales agent unless currently licensed by DFS and is appointed by a preneed main licensee, for whom they are executing preneed contracts. The bill gets rid of the current penalty of a second-degree misdemeanor and provides that any person who is not licensed under ch. 497, F.S., and who engages in activity requiring licensure, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

### ***Notice to Purchaser***

A preneed contract is any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.<sup>29</sup> To ensure performance of unfulfilled preneed contracts, a preneed licensee must provide written notice to the purchaser or the beneficiary's legally authorized person, with the intent to distribute funds in accordance with the terms of the contract if:

- Fifty years have passed since the date of the preneed contract execution;<sup>30</sup>
- The beneficiary of the preneed contract reaches the age of 105 or older;<sup>31</sup> or
- The social security number of the beneficiary, as shown on the contract, is contained within the United States Social Security Administration Death Master File.<sup>32</sup>

This written notice must be provided by certified mail, registered mail, or permitted delivery service, return receipt requested.<sup>33</sup> Currently, the purchaser or the beneficiary's legally authorized person must respond to such notice within 120 days after delivery, otherwise the funds held in trust will be distributed in accordance with the terms of the preneed contract, the trust agreement, and any applicable provisions of ch. 717, F.S., relating to the disposition of unclaimed property.

### **Effect of the Bill**

The bill requires a preneed licensee to conduct an analysis of his or her preneed contracts at least every three years. The three year period will begin when the first analysis pursuant to this section is conducted, which must occur at least by July 1, 2021. If an analysis finds the contract was executed at least fifty years ago or the beneficiary has reached 105 years of age, the preneed licensee must provide written notice with intent to distribute funds in accordance with the contract. The bill gets rid of the written notice requirement when the social security number of the beneficiary of the contract is contained within the United States Social Security Administration Death Master File. The bill clarifies that such notice is to be provided by the preneed licensee, instead of the trustee.

The bill allows the purchaser or the beneficiary's legally authorized person three years to respond to the written notice. If the purchaser or the beneficiary's legally authorized person fails to respond, the funds held in trust will be distributed within 60 days of the end of the three year period as follows:

- The principle deposited into trust will be remitted to the Unclaimed Property Trust Fund.
- Any additional funds in trust will be remitted to the preneed licensee.

If funds are distributed from trust, the preneed licensee is absolved of all liability associated with the preneed contract for which the funds were distributed, including any obligation to refund any monies paid by a purchaser. At the time funds are remitted to the Unclaimed Property Trust Fund, the names of the purchaser and beneficiary will be provided to the Division of Unclaimed Property.

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<sup>28</sup> Preneed contract means "any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future." S. 497.005 (61), F.S.

<sup>29</sup> S. 497.005(61), F.S.

<sup>30</sup> S. 497.459(7)(a)1., F.S.

<sup>31</sup> S. 497.459(7)(a)2., F.S.

<sup>32</sup> S. 497.459(7)(a)3., F.S.

<sup>33</sup> S. 497.459(7)(b)1., F.S.

The bill clarifies that any purchaser and beneficiary, or legally authorized persons of such, who receives written notice from a preneed licensee, retains all rights to both cancellation and fulfillment between the time of written notice and the distribution of funds. Fulfillment may include identifying a new beneficiary on the preneed contract, which makes the contract effective as of the date of the identification of the new beneficiary.

### ***Explosives***

Chapter 552, F.S., addresses the manufacture, distribution, and use of explosives, which are regulated by the State Fire Marshal. The current definition of a two-component explosive requires detonation to be triggered by a No. 6 blasting cap. This specific blasting cap has gone out of production and current blasting caps do not fall under the same rating system. Current blasting caps fall outside of this definition and therefore are not effectively regulated.

#### Effect of the Bill

The bill removes the No. 6 blasting cap specification and changes it to any detonator. The amendment to this subsection brings the language in line with current practices.

### ***Uniform Fire Alarm Permit Application***

Contractors can work on installing or repairing a fire alarm system only after receiving a permit. Local enforcement agencies often require a plan review for installation or replacement. If a plan review is required, a contractor must file a Uniform Fire Alarm Permit Application with the local enforcement agency and receive the permit prior to installing or replacing a fire alarm. If the local enforcement agency requires a fire alarm permit for a repair to an existing alarm system previously permitted by the local enforcement agency, a contractor must receive the permit prior to repairing the system.

#### Effect of the Bill

The bill allows a contractor to begin a repair after filing the application instead of waiting for the permit to be received. However, this change only applies if the local enforcement agency requires a permit to repair an existing alarm system that was previously permitted by the agency. If a contractor begins the repair prior to receiving the permit, the repaired fire alarm will not be compliant with the local enforcement agency until the permit is issued and the agency has approved the repair. This allows repairs to be completed in a more efficient manner.

### ***Doorstep Refuse and Recycling Collection***

The State Fire Marshal, by rule, adopts the Florida Fire Prevention Code (Fire 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.<sup>34</sup> The State Fire Marshal adopts a new edition of the Fire Code every three years.<sup>35</sup> The 6th edition of the Fire Code took effect on January 1, 2018.

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.<sup>36</sup> Local enforcement authorities may adopt more stringent fire safety standards, subject to certain requirements in s. 633.208, F.S., as long as they do not conflict with ch. 633, F.S., relating to fire prevention and control, or any other state law.<sup>37</sup>

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<sup>34</sup> Ch. 69A-60, F.A.C.

<sup>35</sup> S. 633.202, F.S.

<sup>36</sup> ss. 633.108 and 633.208, F.S.

<sup>37</sup> ss. 633.208 and 633.214(4), F.S.

Residents of apartment buildings may place combustible waste and refuse in exit access corridors in apartment buildings if the following conditions are met:

- Doorstep refuse and recycling collection containers do not exceed 13 gallons for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not exceed 27 gallons for apartment buildings with open air corridors and exterior stairs or balconies with exterior exit stairs;
- Waste, which is in a doorstep refuse and recycling collection container, is not placed in an exit access corridor for a single period greater than 5 hours;
- Doorstep refuse and recycling collection containers are not in an exit access corridor for a single period greater than 12 hours for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not reduce the exit access corridor's width below the width required by the Fire Code;
- Doorstep refuse and recycling collection containers are able to stand upright on their own and may not leak fluids when standing upright; and
- The apartment's management staff have written policies and procedures to ensure compliance with the above conditions. Management staff must enforce the policies and must provide a copy of the policies to the authority having jurisdiction upon request.<sup>38</sup>

Currently, this provision will be repealed on July 1, 2021.

#### Effect of the Bill

The bill would extend the current expiration date of July 1, 2021 to July 1, 2024.

#### ***Fire Sprinkler Systems***

A licensed fire protection engineer or architect, with fire protection design experience, may design any type of fire protection system.<sup>39</sup> A person certified as a Contractor I,<sup>40</sup> Contractor II,<sup>41</sup> or Contractor IV,<sup>42</sup> under ch. 633, F.S., relating to fire prevention and control, may design fire protection systems of 49 or fewer sprinklers. These designated contractors may also design the alteration of an existing fire sprinkler system, as long as no more than 49 sprinklers are relocated, added, or deleted.<sup>43</sup>

#### Effect of the Bill

The bill allows a person certified as a Contractor I or a Contractor II to design new fire protection systems of 49 or fewer sprinklers, and to design the alteration of an existing system if it adds 49 or fewer sprinklers. A person certified as a Contractor IV can no longer design or alter fire protection systems. Additionally, the bill allows a Contractor I or II to alter an existing fire sprinkler system, as long as it entails the relocation or deletion of 249 or fewer sprinklers, and such alteration requires no

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<sup>38</sup> S. 633.202(20), F.S.

<sup>39</sup> S. 633.102(3), F.S.; A fire protection system is defined as "a system individually designed to protect the interior or exterior of a specific building or buildings, structure, or other special hazard from fire." s. 633.102(11), F.S.

<sup>40</sup> "A contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding preengineered systems." s. 633.102(3)(a), F.S.

<sup>41</sup> "A contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems." s. 633.102(3)(b), F.S.

<sup>42</sup> "A contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings." s. 633.102(3)(d), F.S.

<sup>43</sup> S. 633.102(3), F.S.

change in occupancy as defined in the Florida Building Code, no change in water demand as defined in National Fire Protection Association Publication (NFPA) No. 13, and the occupancy hazard classification, as defined in NFPA No. 13, is either reduced or remains the same following the alteration.

### ***Influencing a Firesafety Inspector***

If the State Fire Marshal (SFM) finds a violation of ch. 633, F.S., or a violation of any rule or order of the SFM, the SFM has the authority to deny, refuse to renew, suspend, or revoke the certificate of a firesafety inspector.<sup>44</sup> In addition, any person who violates a provision of ch. 633, F.S., or any order or rule of the SFM commits a misdemeanor of the second degree.<sup>45</sup>

#### **Effect of the Bill**

The bill prohibits any person from influencing a firesafety inspector by threatening, coercing, tricking, or attempting to threaten, coerce, or trick a firesafety inspector into violating the Florida Fire Prevention Code, rules adopted by the SFM, or any provision of ch. 633, F.S. It also prohibits any person from offering compensation to a firesafety inspector related to committing such violations. Additionally, the bill prohibits a firesafety inspector from knowingly and willfully accepting an attempt to improperly influence the performance of his or her duties. A violation by a firesafety inspector of this new provision allows the SFM to deny, refuse to renew, suspend, or revoke a firesafety inspector's certificate.<sup>46</sup> Moreover, any person who violates the bill's provisions commits a misdemeanor of the second degree.<sup>47</sup>

### ***State Fire College Training***

Any organization or individual engaging in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, or hydrotesting any fire extinguisher or preengineered system in this state must possess a valid license issued by the Division of State Fire Marshal (DSFM).<sup>48</sup> A preengineered system means a fire suppression system which:

- Uses any variety of extinguishing agents;
- Is designed to protect specific hazards;
- Is installed according to pretested limitations and configurations specified by the manufacturer and applicable National Fire Protection Association standards.
- Is installed using components specified by the manufacturer or components that are listed as equal parts by a nationally recognized testing laboratory; and
- Is listed by a nationally recognized testing laboratory.<sup>49</sup>

After initial licensure, each licensee or permittee must successfully complete at least 16 hours of continuing education for fire equipment technicians.<sup>50</sup> Documentation of the completion must be provided in order to renew a license or permit.<sup>51</sup> A license of any class may not be issued or renewed by the DSFM unless certain qualifications are met.<sup>52</sup>

One qualification requires a person to successfully complete a prescribed training course offered by the State Fire College, or an equivalent course approved by the State Fire Marshal (SFM), if he or she:

- Is applying to receive or renew a license of any class;<sup>53</sup>

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<sup>44</sup> S. 633.216 (6)(b), F.S.

<sup>45</sup> S. 633.124 (1), F.S.

<sup>46</sup> S. 633.216 (6)(b), F.S.

<sup>47</sup> S. 633.124 (1), F.S.

<sup>48</sup> S. 633.304(1), F.S.

<sup>49</sup> Ss. 633.102(25)(a)1. – 633.102(25)(a)5., F.S.

<sup>50</sup> S. 633.304(4)(b), F.S.

<sup>51</sup> *Id.*

<sup>52</sup> Ss. 633.304(4)(d)1. – 633.304(4)(d)6., F.S.

<sup>53</sup> S. 633.304(4)(d)4., F.S.

- Is applying to receive or renew a permit of any class;<sup>54</sup> or
- Has failed the written examination testing knowledge of the rules and statutes governing the activities authorized by the license or permit.<sup>55</sup>

### Effect of the Bill

The bill does the following in regard to the required training course:

- Specifies that the course must include both written and practical training;
- Requires that the course be offered *at* the State Fire College; and
- Requires that the course be approved by the SFM, as applicable to the class of license being sought.

### ***Volunteer Firefighter Service***

Volunteer firefighters are required to obtain a Firefighter Certificate of Completion through training. With this certificate, they can enter into immediately dangerous to life and health (IDLH) environments, just as career firefighters can. Volunteer firefighters can become career firefighters, if they complete a Certificate of Compliance. Currently, if a volunteer firefighter chooses to become a career firefighter, he or she is no longer able to enter an IDLH environment while completing the Certificate of Compliance.

### Effect of the Bill

The bill allows volunteer firefighters who are in transition to become career firefighters to function in the same capacity in which they acted as volunteer firefighters. The period for which they remain volunteers cannot extend beyond one year, collectively or consecutively. A volunteer firefighter in transition must hold a Certificate of Completion with a fire service provider and subsequently be employed as a regular or permanent firefighter. The volunteer firefighter in transition must be under the direct supervision of an individual holding a valid firefighter Certificate of Compliance. This allows Fire Service Providers to transition qualified personnel from volunteer to career status without stripping their ability to perform.

### ***False Personation***

Section 843.08, F.S., lays out the penalties for false personation (impersonation), which is treated as an obstruction of justice, a third-degree felony. If the impersonation is committed with another felony, it is considered a second-degree felony. If it is committed and causes death or personal injury to another individual, it is considered a first-degree felony. Current law prohibits impersonation of a fire or arson investigator of DFS and any officer of DFS but does not address officers of DIFS.

### Effect of the Bill

The bill would take out the specificity of a fire or arson investigator of DFS and instead add “any personnel or representative of the Division of Investigative and Forensic Services,” making the specific protection broader. This change makes it a felony to impersonate any DIFS personnel and any DFS officer.

### ***Continuing Education for Title Insurance Agents***

Individuals licensed to engage in the sale of insurance or adjustment of insurance claims in this state are required to fulfill continuing education requirements, pursuant to s. 626.2815, F.S. Currently, licensees, except title insurance agents, are required to complete a 5-hour update course every two years, specific to the license they hold.<sup>56</sup> Unless otherwise provided, licensees must also complete 19

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<sup>54</sup> S. 633.304(4)(g)2., F.S.

<sup>55</sup> S. 633.304(4)(h), F.S.

<sup>56</sup> S. 626.2815(3), F.S.

hours of elective continuing education courses every two years.<sup>57</sup> If a licensee has been licensed for six years or more, this requirement drops to 15 hours.<sup>58</sup> An individual subject to chapter 648, F.S., relating to bail bond agents, is required to complete a 5-hour update course and a minimum of 9 hours of elective continuing education courses every two years.<sup>59</sup>

If continuing education requirements are not met, DFS has the authority to immediately terminate or refuse to renew the appointment of an agent or adjuster, following notification from DFS, unless an extension or waiver has been granted.<sup>60</sup>

### Effect of the Bill

The bill lowers the update course requirement to four hours for individuals licensed to solicit, sell, or adjust insurance in the state. The update course is raised to six hours for an individual who holds a license as a customer representative, and who is not a licensed life or health agent. Licensees must complete 20 hours of elective continuing education every two years, and if a licensee has been licensed for six years or more, he or she must complete 16 hours of continuing education every two years. Lastly, individuals who fall under chapter 648, F.S., relating to bail bond agents, are required to complete a four hour update course and a minimum of ten hours of continuing education every two years.

### **Florida Blockchain Task Force**

In 2019, the Florida Blockchain Task Force was established within DFS,<sup>61</sup> to explore and develop a master plan for fostering the expansion of the blockchain industry in the state. Consisting of 13 appointed members, the task force's master plan must do the following:

- Identify the economic growth and development opportunities presented by blockchain technology;
- Assess the existing blockchain industry in the state;
- Identify innovative and successful blockchain applications currently used by industry and other governments to determine viability for state applications;
- Review workforce needs and academic programs required to build blockchain technology expertise across all relevant industries; and
- Make recommendations to the Governor and the Legislature that will promote innovation and economic growth by reducing barriers to and expediting the expansion of the state's blockchain industry.<sup>62</sup>

The task force is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as well as present its findings to the appropriate legislative committees in each house of the Florida Legislature. The report must include the following:

- A general description of the costs and benefits of state and local government agencies using blockchain technology;
- Recommendations concerning the feasibility of implementing blockchain technology in the state and the best approach to finance the cost of implementation;
- Recommendations for specific implementations to be developed by relevant state agencies;
- Any draft legislation the task force deems appropriate to implement such blockchain technologies;
- Identification of one pilot project that may be implemented in the state; and
- Any other information deemed relevant by the task force.

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<sup>57</sup> S. 626.2815(3)(a), F.S.

<sup>58</sup> S. 626.2815(3)(b), F.S.

<sup>59</sup> S. 626.2815(3)(e), F.S.

<sup>60</sup> S. 626.2815(9), F.S.

<sup>61</sup> Ch. 2019-140, Laws of Fla.

<sup>62</sup> Ch. 2019-140, Laws of Fla.

The report is to be submitted within 180 days after the initial meeting. The task force's initial meeting was September 23, 2019, making the current due date for the report March 21, 2020.

### Effect of the Bill

The bill renames the Florida Blockchain Task Force to the "Florida Financial Technology and Blockchain Task Force." The bill incorporates financial technology throughout the duties of the task force, including a requirement that the task force consider financial technology innovations related to money transmitters<sup>63</sup> and payment instrument sellers.<sup>64</sup> Specifically, this requirement includes consideration of mediums of exchange that are in electronic or digital form, and identifying new products and services that could lead to business growth in the state.

The bill extends the due date for the task force's report from March 21, 2020 to January 21, 2021. All other aspects of the task force remain unchanged.

#### B. SECTION DIRECTORY:

Section 1: Amends s. 20.121, F.S., relating to the Division of Public Assistance Fraud.

Section 2: Creates s. 284.45, F.S., relating to state risk management and safety programs; prohibiting an individual from engaging in retaliatory conduct against a sexual harassment victim; providing criminal penalties.

Section 3: Amends s. 497.101, F.S., relating to membership of the Board of Funeral, Cemetery, and Consumer Services.

Section 4: Creates s. 497.1411, F.S., relating to disqualification of applicants and licensees; penalties against licensees; rulemaking.

Section 5: Amends s. 497.142, F.S., relating to provisions for criminal background checks for applicants under ch. 497, F.S.

Section 6: Amends s. 497.157, F.S., relating to unlicensed practice; penalties concerning violations by unlicensed persons.

Section 7: Amends s. 497.159, F.S., relating to criminal penalties.

Section 8: Amends s. 497.459, F.S., relating to notice to purchasers of preneed contracts.

Section 9: Amends s. 552.081, F.S., relating to definitions.

Section 10: Amends s. 553.7921, F.S., relating to fire alarm permit applications to local enforcement agency.

Section 11: Amends s. 633.102, F.S., relating to licensure for design, installation, and alteration of fire sprinklers.

Section 12: Amends s. 633.202, F.S., relating to extending a repeal date.

Section 13: Creates s. 633.217, F.S., relating to influencing a firesafety inspector; prohibited acts.

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<sup>63</sup> "Money transmitter" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country." s. 560.103(23), F.S.

<sup>64</sup> "Payment instrument seller" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which sells a payment instrument." s. 560.103(30), F.S.

Section 14: Amends s. 633.304, F.S., relating to training courses offered by the State Fire College.

Section 15: Amends s. 633.416, F.S., relating to firefighter employment and volunteer firefighter service; saving clause.

Section 16: Amends s. 843.08, F.S., relating to false personation.

Section 17: Amends s. 943.045, F.S., relating to the investigations component of the Department of Financial Services.

Section 18: Amends s. 626.2815, F.S., relating to continuing education requirements for title insurance agents.

Section 19: Amends s. 40, ch. 2019-140, Laws of Florida, relating to renaming the Florida Blockchain Task Force and extending report due date.

Section 20: 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:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **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 expenditure 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.

## B. RULE-MAKING AUTHORITY:

The Board of Funeral, Cemetery, and Consumer Services is directed to adopt rules to:

- Administer s. 497.1411, F.S.;
- Provide for additional disqualifying periods due to commitment of multiple crimes, which may include other factors reasonably related to the applicant's criminal history; and
- Provide for mitigating and aggravation factors.

## C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 21, 2020, the Insurance & Banking Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment created s. 633.217, F.S., relating to firesafety inspectors, to prohibit:

- Any person from influencing a firesafety inspector by threatening, coercing, tricking, or attempting to threaten, coerce, or trick, a firesafety inspector into violating, or offering to compensate the firesafety inspector to induce a violation of, any provision of the Florida Fire Prevention Code, a rule adopted by the State Fire Marshal, or ch. 633, F.S.
- A firesafety inspector from knowingly and willfully accepting an attempt by a person to influence the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S.

On February 13, 2020, the Commerce Committee considered the bill and adopted one strike all amendment and one amendment to the strike all, and reported the bill favorably as a committee substitute. The strike all amendment included the original provisions of the bill, with a few minor revisions, and added the following:

- Added a new requirement to state risk management and safety programs, prohibiting retaliatory conduct against a sexual harassment victim, prohibiting willful and knowledgeable distribution of a victim's personal identifying information, and providing penalties for related violations.
- Revised the crimes which must be disclosed in order to apply for a license, and deleted conflicting penalties, under ch. 497, F.S., related to Funeral, Cemetery, and Consumer Services.
- Revised provisions concerning notice to purchasers of preneed contracts.
- Added the ability for a Contractor I or II licensee to alter an existing fire sprinkler system involving 249 or fewer sprinkler heads if there is no change in occupancy of the affected areas, no change in the water demand, and the occupancy hazard classification is reduced or remains the same.
- Extended the current expiration date of July 1, 2021 to July 1, 2024, for provisions that allow residents in apartment buildings to place garbage cans containing combustible waste and refuse in exit access corridors during certain hours.
- Specified that training courses offered by the State Fire College must include a written and a practical element and be approved by the State Fire Marshal.
- Revised the continued education hours required for individuals licensed to solicit, sell, or adjust insurance in the state.
- Renamed the Florida Blockchain Task Force to the "Florida Financial Technology and Blockchain Task Force;" required the task force to consider financial technology innovations related to money transmitters and payment instrument sellers; and extended the expiration date of the task force to January 31, 2021.

The staff analysis has been updated to reflect the committee substitute.