

Insurance & Banking Subcommittee

Wednesday, February 17, 2021
10:00 AM - 12:00 PM
Morris Hall (17 HOB)

Meeting Packet

Chris Sprowls
Speaker

Nick DiCeglie
Chair

The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

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Meeting Agenda

Wednesday, February 17, 2021
10:00 AM – 12:00 PM
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I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):
- HB 425 Disposition of Unclaimed Property by Clemons
- HB 467 Insurance Adjuster Examination Requirements by DuBose

Florida Hurricane Catastrophe Fund Update
Mary Linzee Branham, Director of Legal and Risk Operations

V. Closing Remarks

VI. Adjournment

HB 425

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 425 Disposition of Unclaimed Property
SPONSOR(S): Clemons
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fortenberry	Luczynski
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Division of Unclaimed Property within the Florida Department of Financial Services (DFS) maintains a database of unclaimed property in its possession. Claimants' representatives are registered with DFS (registrants) to gain access to the unclaimed property database and to seek authorizations from potential claimants of unclaimed property to file claims on behalf of those claimants. Each registrant who files claims utilizes a unique power of attorney through which claimants provide authorization to registrants to file a claim on their behalf and to receive a fee for services. The lack of uniformity in the use of the powers of attorney poses problems for consumers and DFS staff. Some registrants utilize powers of attorney that contain legal phrases which may be confusing or problematic for claimants. The powers of attorney often also contain irrevocable clauses and stipulations, allow the registrant to claim the property if the claimant fails to do so, or permit the registrant to take legal action against the claimant if the claimant rescinds the power of attorney.

Florida law does not limit the fees and costs registrants may claim for recovering property for a claimant under certain circumstances. If a claimant signs a Full Disclosure Statement prior to executing of a power of attorney, a claimant's representative may collect unlimited fees and costs for providing services related to the collection of the unclaimed property. If the Full Disclosure Statement is not signed, the fees and costs are capped at 20 percent of the value of the property recovered, and not to exceed $1,000 per account owned by a natural person and claimed in the recovery. DFS may presently allow a claimant of unclaimed property to electronically submit a claim for unclaimed property if the amount of the claim is $1,000 or less.

The bill streamlines the unclaimed property claims law. Under the bill DFS will adopt forms by rule entitled "Uniform Unclaimed Property Recovery Agreement" (Recovery Agreement) and "Uniform Unclaimed Property Purchase Agreement" (Purchase Agreement). These will be the exclusive means of a registrant engaging a claimant or seller to file an unclaimed property claim with DFS. The Agreements will be similar to the powers of attorney used by many registrants, but will be more claimant-friendly and will provide consumer protections, including a cap on fees and costs that registrants may charge claimants in all circumstances.

The bill specifies what must be contained in the Agreements, including specific information about the amounts claimed or sold, the fees and costs received by the registrant, and identifying information for both the claimant or seller and the registrant. The Agreements cap the total fees and costs, or the total discount amount in the case of a purchase agreement, to no more than 25 percent of the claimed amount. If the total fees and costs exceed 25 percent, the fee shall be reduced to 25 percent and the net balance remitted directly to the claimant by DFS. Furthermore, the bill increases the value of property for which an apparent owner may submit an electronic claim from $1,000 to $2,000.

The bill has no impact on state or local government revenues or expenditures. The bill may have a positive economic benefit to consumers who have claims for unclaimed property and a negative economic impact on registered claimants' representatives.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Department of Financial Services (DFS) is composed of 13 divisions and one independent office, including the Division of Unclaimed Property. Chapter 717, F.S., provides a framework for the rightful owners to obtain unclaimed property that is held by DFS. DFS maintains a database of unclaimed property in its possession. More than 350 licensed[1] claimant's representatives are registered with DFS (registrants) to gain access to the unclaimed property database and to seek authorizations from potential claimants of unclaimed property held by DFS to file claims on behalf of those claimants.[2]

Each registrant who files claims utilizes a unique power of attorney through which claimants provide authorization to registrants to file a claim on their behalf and to receive a fee for services.[3] While each power of attorney is different, most contain language similar to the following: "I hereby authorize ZYZ Associates to file a claim on my behalf for the unclaimed property accounts listed and to receive the fee I authorize."[4] The lack of uniformity in the use of the powers of attorney poses problems for both consumers and for DFS staff. DFS's unclaimed property analysts are required to review and process all documents for each claim, including the unique powers of attorney.[5]

DFS has explained that, in addition to the language required in the powers of attorney,[6] some registrants utilize powers of attorney that contain legal phrases such as "representation agreement, assignment, assignment of interest, recovery agreement, or contract," which may be confusing or problematic for claimants.[7] The powers of attorney often also contain irrevocable clauses and stipulations, including assignments of interests and rights, exclusivity provisions, venue and attorney fees provisions.[8] Some powers of attorney provide that if the claimant fails to act, the registrant can claim their 'assigned property' separate from the claimant.[9] Furthermore, some registrants will threaten claimants with legal action if the claimants attempt to rescind a power of attorney and file the claims themselves or hire another registrant who charges a lower fee for recovering the unclaimed property on behalf of the claimant.[10]

Section 717.135, F.S., contains different limits on the fees and costs that a registrant can recover for obtaining unclaimed property for a claimant. Currently, if a Full Disclosure Statement, as described in the law, has been provided to an unclaimed property claimant for signature prior to the execution of a power of attorney, fees and costs collected by a claimant's representative for providing services related to the collection of the unclaimed property are unlimited.[11] If the Full Disclosure Statement has not been provided to the claimant, then the fees and costs are capped at 20 percent of the value of the property recovered, and not to exceed $1,000 per account owned by a natural person and claimed in the recovery.[12]

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[1] Pursuant to s. 717.124(1), F.S., only Florida-licensed attorneys, Florida-licensed certified public accountants, and or private investigators licensed under ch. 493, F.S., may be registered as claimants' representatives.
[2] Florida Department of Financial Services, Agency Analysis of House Bill 425, p. 1 (Feb. 9, 2021).
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *See* s. 717.135, F.S.
[7] DFS, *supra* note 2, at 2.
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] S. 717.135, F.S. The text of the Full Disclosure Statement to be signed by a claimant is located in s. 717.135(3)(a), F.S.
[12] *Id.*

Additionally, DFS may presently allow a claimant of unclaimed property to electronically submit a claim for unclaimed property if the amount of the claim is $1,000 or less.[13] According to DFS, approximately 15 percent of unclaimed property claims are made electronically.[14]

Effect of the Bill

The bill changes the unclaimed property claims law to streamline the process for consumers. It provides that DFS will adopt forms by rule entitled "Uniform Unclaimed Property Recovery Agreement" (Recovery Agreement) and "Uniform Unclaimed Property Purchase Agreement" (Purchase Agreement). These Agreements will be the exclusive means of a claimant's representative engaging a claimant or seller to file an unclaimed property claim with DFS. The Agreements will be similar to the powers of attorney used by many registrants, but will be more claimant-friendly and will provide consumer protections, including a cap on fees and costs that registrants may charge claimants in all circumstances.

The bill significantly amends s. 717.135, F.S., to eliminate the current power of attorney requirements and replace them with requirements for the Recovery Agreement and Purchase Agreement. Pursuant to the bill, the Recovery Agreement and Purchase Agreement must include and disclose:

- The total dollar amount of the unclaimed property accounts claimed or sold;
- Either the total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the purchasing registered claimant's representative;
- Either the total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's representative or the total net dollar amount to be received by the purchasing registered claimant's representative;
- The net dollar amount the claimant or seller will receive;
- The unclaimed property account number and name of the owner for each account claimed;
- For the Purchase Agreement, a statement that the purchase price will be remitted to the seller within 30 days after the seller executes the form;
- The name, contact information, and license number of the registered claimant's representative;
- The manual signature of the claimant or seller and the date signed;
- The social security number or taxpayer identification number of the claimant or seller, if available; and
- The total fees and costs, or the total discount amount in the case of a purchase agreement, may not exceed 25 percent of the claimed amount. If the total fees and costs exceed 25 percent, the fee shall be reduced to 25 percent and the net balance remitted directly by the department to the claimant.

Replacing the current fees and costs structure with a 25 percent maximum cap for total fees and costs will be more consumer friendly and easier for DFS unclaimed property analysts to review and apply. The bill also increases the limit of the property value for which an electronic claim can be filed from $1,000 to $2,000. The bill sets forth details about how an apparent owner, who is also the claimant, can sign the Agreements electronically. Increasing the maximum amount of a claim allowed for electronic filing from $1,000 to $2,000, will allow more claimants to file claims without the need to submit physical paperwork. This will provide for quicker receipt of property by claimants and greater efficiency for DFS.

The Recovery Agreement and Purchase Agreement may not contain language that makes them irrevocable or that creates an assignment of any unclaimed property held by DFS. For the Purchase Agreement, if DFS does not receive proof that the seller received payment, then the claim is void.

All references to "power of attorney" within the remainder of the unclaimed property claims laws are changed to the Recovery Agreement and Purchase Agreement, as appropriate, so that these forms will be utilized in unclaimed property claims going forward in lieu of powers of attorney. Section 717.1351,

[13] S. 717.124(7), F.S.
[14] DFS, *supra* note 2, at 2.

F.S., relating to the acquisition of unclaimed property is repealed because it is no longer necessary following the additional changes to the unclaimed property claims laws set forth within the bill.

B. SECTION DIRECTORY:

Section 1. Amends s. 717.124, F.S., relating to unclaimed property claims.

Section 2. Amends s. 717.12404, F.S., relating to claims on behalf of a business entity or trust.

Section 3. Amends s. 717.1315, F.S., relating to retention of records by claimant's representatives and buyers of unclaimed property.

Section 4. Amends s. 717.1322, F.S., relating to administrative and civil enforcement.

Section 5. Amends s. 717.135, F.S., relating to power of attorney to recover reported property in the custody of the department.

Section 6. Repeals s. 717.1351, F.S., relating to acquisition of unclaimed property.

Section 7. Provides an effective date of upon becoming law.

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:

The bill may have positive economic impacts for consumers. By streamlining the unclaimed property claims process using new forms and by capping the fees and costs that a claimants' representative can charge, consumers may be able to keep a greater percentage of the unclaimed property that they recover. The bill may have negative economic impacts for some registered claimant's representatives as they may receive a reduced percentage of a claimants' property.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DFS to promulgate two new forms related to unclaimed property (Recovery Agreement and Purchase Agreement) to be adopted pursuant to rule. Because s. 717.138, F.S., provides sufficient rulemaking authority for DFS to adopt rules pursuant to ch. 120, F.S., for all matters related to the disposition of unclaimed property under ch. 717, F.S., no additional rulemaking authority is necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to disposition of unclaimed property; amending s. 717.124, F.S.; requiring specified agreements for certain claims; removing provisions requiring the Department of Financial Services to deny certain unclaimed property claims; increasing the threshold required to use of a different method of identity verification for electronic claims; conforming provisions to changes made by the act; amending ss. 717.12404, 717.1315, and 717.1322, F.S.; conforming provisions to changes made by the act; amending s. 717.135, F.S.; requiring the department to adopt forms for a Uniform Unclaimed Property Recovery Agreement and a Uniform Unclaimed Property Purchase Agreement; providing requirements for such agreements; providing that the agreements are the exclusive means for a claimant's representative to file a claim or to recover fees and costs; prohibiting a claimant's representative from using or distributing any other form of agreement; providing administrative and civil penalties; authorizing the department to pay additional accounts under certain circumstances; providing application; repealing s. 717.1351, F.S., relating to unclaimed property claims; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1), paragraphs (b) and (c) of subsection (4), and subsections (7) and (10) of section 717.124, Florida Statutes, are amended to read:

717.124 Unclaimed property claims.—

(1) Any person, excluding another state, claiming an interest in any property paid or delivered to the department under this chapter may file with the department a claim on a form prescribed by the department and verified by the claimant or the claimant's representative. The claimant's representative must be an attorney licensed to practice law in this state, a licensed Florida-certified public accountant, or a private investigator licensed under chapter 493. The claimant's representative must be registered with the department under this chapter. The claimant, or the claimant's representative, shall provide the department with a legible copy of a valid driver license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver license at the time the original claim form is filed, the department shall be provided with a legible copy of a photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other

evidence deemed acceptable by the department by rule. In lieu of photographic identification, a notarized sworn statement by the claimant may be provided which affirms the claimant's identity and states the claimant's full name and address. The claimant must produce to the notary photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Uniform Unclaimed Property Recovery Agreement or Uniform Unclaimed Property Purchase Agreement ~~power of attorney or purchase agreement~~, if applicable, is void.

(a) Within 90 days after receipt of a claim, the department may return any claim that provides for the receipt of fees and costs greater than that permitted under this chapter or that contains any apparent errors or omissions. The department may also request that the claimant or the claimant's representative provide additional information. The department shall retain a copy or electronic image of the claim.

(b) A ~~claimant or the claimant's representative shall be deemed to have withdrawn a~~ claim is considered to have been withdrawn by a claimant or the claimant's representative if ~~no~~

~~response to~~ the department does not receive a response to its ~~department's~~ request for additional information ~~is received by the department~~ within 60 days after the notification of any apparent errors or omissions.

(c) Within 90 days after receipt of the claim, or the response of the claimant or the claimant's representative to the department's request for additional information, whichever is later, the department shall determine each claim. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57. The 90-day period shall be extended by 60 days if the department has good cause to need additional time or if the unclaimed property:

1. Is owned by a person who has been a debtor in bankruptcy;

2. Was reported with an address outside of the United States;

3. Is being claimed by a person outside of the United States; or

4. Contains documents filed in support of the claim that are not in the English language and have not been accompanied by an English language translation.

~~(d) The department shall deny any claim under which the claimant's representative has refused to authorize the department to reduce the fees and costs to the maximum permitted under this chapter.~~

(4)

(b) If an owner authorizes an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, and registered with the department under this chapter, to claim the unclaimed property on the owner's behalf, the department is authorized to make distribution of the property or money in accordance with the Uniform Unclaimed Property Recovery Agreement or Uniform Unclaimed Property Purchase Agreement under s. 717.135 ~~such power of attorney~~. The original Uniform Unclaimed Property Recovery Agreement or Uniform Unclaimed Property Purchase Agreement ~~power of attorney~~ must be executed by the claimant or seller ~~owner~~ and must be filed with the department.

(c)1. Payments of approved claims for unclaimed cash accounts must ~~shall~~ be made to the owner after deducting any fees and costs authorized by the claimant under a Uniform Unclaimed Property Recovery Agreement ~~pursuant to a written power of attorney~~. The contents of a safe-deposit box must ~~shall~~ be delivered directly to the claimant ~~notwithstanding any power of attorney or agreement to the contrary~~.

2. Payments of fees and costs authorized under a Uniform Unclaimed Property Recovery Agreement ~~pursuant to a written power of attorney~~ for approved claims must ~~shall~~ be made or issued to the law firm of the designated attorney licensed to

practice law in this state, the public accountancy firm of the licensed Florida-certified public accountant, or the designated employing private investigative agency licensed by this state. Such payments shall be made by electronic funds transfer and may be made on such periodic schedule as the department may define by rule, provided the payment intervals do not exceed 31 days. Payment made to an attorney licensed in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, operating individually or as a sole practitioner, must ~~shall~~ be to the attorney, certified public accountant, or private investigator.

(7) The department may allow an apparent owner to electronically submit a claim for unclaimed property to the department. If a claim is submitted electronically for $2,000 ~~$1,000~~ or less, the department may use a method of identity verification other than a copy of a valid driver license, other government-issued photographic identification, or a sworn notarized statement. The department may adopt rules to implement this subsection.

(10) Notwithstanding any other provision of this chapter, the department may develop a process by which a ~~registered~~ claimant's representative or a buyer of unclaimed property may electronically submit to the department an electronic image of a completed claim and claims-related documents under ~~pursuant to~~ this chapter, including a Uniform Unclaimed Property Recovery

Agreement or Uniform Unclaimed Property Purchase Agreement ~~limited power of attorney or purchase agreement~~ that has been manually signed and dated by a claimant or seller under ~~pursuant to~~ s. 717.135 ~~or s. 717.1351~~, after the claimant's representative or the buyer of unclaimed property receives the original documents provided by the claimant or the seller for any claim. 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 attesting that all documents are true copies of the original documents and that all original documents are physically in the possession of the claimant's representative or the buyer of unclaimed property. All original documents must be kept in the original form, by claim number, under the secure control of the claimant's representative or the buyer of unclaimed property and must be available for inspection by the department in accordance with s. 717.1315. The department may adopt rules to implement this subsection.

Section 2. Subsection (2) of section 717.12404, Florida Statutes, is amended to read:

717.12404 Claims on behalf of a business entity or trust.—

(2) Claims on behalf of a dissolved corporation, a business entity other than an active corporation, or a trust must include a legible copy of a valid driver license of the person acting on behalf of the dissolved corporation, business

entity other than an active corporation, or trust. If the person has not been issued a valid driver license, the department shall be provided with a legible copy of a photographic identification of the person issued by the United States, a foreign nation, or a political subdivision or agency thereof. In lieu of photographic identification, a notarized sworn statement by the person may be provided which affirms the person's identity and states the person's full name and address. The person must produce his or her photographic identification issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Uniform Unclaimed Property Recovery Agreement or Uniform Unclaimed Property Purchase Agreement ~~power of attorney~~, if applicable, is void.

Section 3. Subsection (1) of section 717.1315, Florida Statutes, is amended to read:

717.1315 Retention of records by claimant's representatives and buyers of unclaimed property.—

(1) Every claimant's representative and buyer of unclaimed property shall keep and use in his or her business such books, accounts, and records of the business conducted under this

chapter to enable the department to determine whether such person is complying with this chapter and the rules adopted by the department under this chapter. Every claimant's representative and buyer of unclaimed property shall preserve such books, accounts, and records, including every Uniform Unclaimed Property Recovery Agreement or Uniform Unclaimed Property Purchase Agreement ~~power of attorney or agreement~~ between the owner and such claimant's representative or buyer, for at least 3 years after the date of the initial ~~power of attorney or~~ agreement.

Section 4. Paragraph (j) of subsection (1) of section 717.1322, Florida Statutes, is amended to read:

717.1322 Administrative and civil enforcement.—

(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement ~~a power of attorney~~ to

file a claim for unclaimed property owned by another, or a contract or agreement to purchase unclaimed property, unless such person is registered with the department under ~~pursuant to~~ this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This paragraph ~~subsection~~ does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

Section 5. Section 717.135, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 717.135, F.S., for present text.)

717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative; fees and costs.—

(1) In order to protect the interests of owners of unclaimed property, the department shall adopt by rule a form entitled "Uniform Unclaimed Property Recovery Agreement" and a

form entitled "Uniform Unclaimed Property Purchase Agreement."

(2) The Uniform Unclaimed Property Recovery Agreement and the Uniform Unclaimed Property Purchase Agreement must include and disclose all of the following:

(a) The total dollar amount of unclaimed property accounts claimed or sold.

(b) The total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the purchasing claimant's representative.

(c) The total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's representative or the total net dollar amount to be received by the purchasing claimant's representative.

(d) The net dollar amount to be received by the claimant or the seller.

(e) For each account claimed, the unclaimed property account number and name of the apparent owner, as listed in the department's database. For agreements in which multiple accounts bear identically listed apparent owner names in the department's database, the identically listed name of that apparent owner may be listed on the agreement one time for that identical name, but the agreement must include all of the account numbers claimed for that identically listed name of the apparent owner.

(f) For the Uniform Unclaimed Property Purchase Agreement,

a statement that the amount of the purchase price will be remitted to the seller by the purchaser within 30 days after the execution of the agreement by the seller.

(g) The name, address, e-mail address, phone number, and license number of the claimant's representative.

(h)1. The manual signature of the claimant or seller and the date signed, affixed on the agreement by the claimant or seller.

2. Notwithstanding any other provision of this chapter to the contrary, the department may allow an apparent owner, who is also the claimant, to sign the agreement electronically for claims of $2,000 or less. All electronic signatures on the Uniform Unclaimed Property Recovery Agreement and the Uniform Unclaimed Property Purchase Agreement must be affixed on the agreement by the claimant or seller using the specific, exclusive eSignature product and protocol authorized by the department.

(i) The social security number or taxpayer identification number of the claimant or seller, if a number has been issued to the claimant or seller.

(j) The total fees and costs, or the total discount in the case of a purchase agreement, may not exceed 25 percent of the claimed amount. If the total fees and costs exceeds 25 percent, the fee shall be reduced to 25 percent and the net balance shall be remitted directly by the department to the claimant.

(3) When using a Uniform Unclaimed Property Purchase Agreement, a seller must provide proof that he or she received payment when the seller files a claim with the department. If proof of payment is not provided, the claim is void.

(4) A claimant's representative must use the Uniform Unclaimed Property Recovery Agreement or the Uniform Unclaimed Property Purchase Agreement as the exclusive means of engaging with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to, or received by, a claimant's representative only after a filed claim has been approved and if the claimant's representative used an agreement authorized by this section.

(6) A claimant's representative may not use or distribute any other agreement, form, or other media with respect to the claimant or seller which relates, directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement, authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative is subject to administrative and civil enforcement under s. 717.1322 if he or she uses an agreement that is not authorized by this section.

(7) The Uniform Unclaimed Property Recovery Agreement and Uniform Unclaimed Property Purchase Agreement may not contain language that makes the agreement irrevocable or that creates an

assignment of any portion of unclaimed property held by the department.

(8) When a claim is approved, the department may pay any additional account that is owned by the claimant but has not been claimed at the time of approval, provided that a subsequent claim has not been filed or is not pending for the claimant at the time of approval.

(9) This section does not supersede s. 717.1241.

Section 6. Section 717.1351, Florida Statutes, is repealed.

Section 7. This act shall take effect upon becoming a law.

INSURANCE & BANKING SUBCOMMITTEE

HB 425 by Rep. Clemons
Disposition of Unclaimed Property

AMENDMENT SUMMARY
February 17, 2021

Amendment 1 by Rep. Clemons (Line 301): The amendment clarifies that the registrant, not the claimant who is selling an account of unclaimed property to the registrant, has to provide proof that the registrant has made payment to the claimant (seller) when filing the claim with the Department of Financial Services.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Clemons offered the following:

Amendment

Remove lines 301-304 and insert:

(3) For a Uniform Unclaimed Property Purchase Agreement form, proof that the seller has received payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

HB 467

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 467 Insurance Adjuster Examination Requirements
SPONSOR(S): DuBose
TIED BILLS: **IDEN./SIM. BILLS:** SB 534

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Rowley	Luczynski
2) Commerce Committee			

SUMMARY ANALYSIS

Current law generally requires passage of a written examination as part of the licensing process for insurance adjusters. The examination requirement is waived for all-lines adjuster applicants who have attained certain professional designations.

The bill provides an exemption to the all-lines adjuster licensing examination to individuals who possess an Accredited Insurance Claims Specialist designation from Encore Claim Services.

The bill has no fiscal impact on state or local governments.

The bill has an effective date of July 1, 2021.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Department of Financial Services, through its Division of Insurance Agent and Agency Services, regulates the licensure of insurance adjusters.[1] An adjuster may be licensed as either an "all-lines adjuster" or a "public adjuster."[2] An all-lines adjuster "is a person who, for money, commission, or any other thing of value, directly or indirectly undertakes on behalf of a public adjuster or an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect settlement of such claim, loss, or damage." [3] Subject to certain exceptions, a public adjuster is someone that is paid by an insured to prepare and file a claim against an insurer.[4]

Among other requirements, an applicant for licensure as an all-lines adjuster must pass a written examination.[5] The examination requirement is waived for applicants who have attained certain professional designations.[6] Section 626.221(2)(j), F.S., exempts from examination applicants who have the following designations:

- Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in Florida;
- Associate in Claims (AIC) from the Insurance Institute of America;
- Professional Claims Adjuster (PCA) from the Professional Career Institute;
- Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy;
- Certified Adjuster (CA) from ALL LINES Training;
- Certified Claims Adjuster (CCA) from AE21 Incorporated;
- Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; or
- Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM).[7]

Effect of the Bill

The bill adds an exemption from the all-lines adjuster licensure examination for applicants who possess an Accredited Insurance Claims Specialist (AICS) designation from Encore Claim Services.

B. SECTION DIRECTORY:

Section 1. Amends s. 626.221, F.S., relating to examination requirement; exemptions.

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[1] Division of Insurance Agent and Agency Services, https://myfloridacfo.com/Division/Agents/ (last visited Feb. 11, 2021).
[2] S. 626.864, F.S. An individual may be licensed as either an all-lines adjuster or a public adjuster, but not both. An all-lines adjuster may be appointed as one, but no more than one at a time, of the following: independent adjuster, public adjuster apprentice, or company employee adjuster.
[3] Ss. 626.015(2) and 626.8548, F.S.
[4] S. 626.854, F.S. "A 'public adjuster' is any person, except a duly licensed attorney at law as exempted under s. 626.860, who, for money, commission, or any other thing of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract or who advertises for employment as an adjuster of such claims. The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of a public adjuster, an insured, or a third-party claimant. The term does not include a person who photographs or inventories damaged personal property or business personal property or a person performing duties under another professional license, if such person does not otherwise solicit, adjust, investigate, or negotiate for or attempt to effect the settlement of a claim."
[5] S. 626.221, F.S.
[6] *Id*.
[7] *Id*.

Section 2. Reenacts s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications.

Section 3. Provides an effective date of July 1, 2021.

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:

The bill may reduce licensure fees for some applicants who have the AICS designation by eliminating their need to pay the examination fee.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. The bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to insurance adjuster examination requirements; amending s. 626.221, F.S.; exempting certain applicants for licensure as an all-lines adjuster from a required examination; reenacting s. 626.8734(1)(b), F.S., relating to nonresident all-lines adjuster license qualifications, to incorporate the amendment made to s. 626.221, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state, Associate in Claims (AIC) from the Insurance Institute of America, Professional Claims Adjuster (PCA) from the Professional Career Institute, Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy, Certified Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(CCA) from AE21 Incorporated, Claims Adjuster Certified Professional (CACP) from WebCE, Inc., Accredited Insurance Claims Specialist (AICS) from Encore Claim Services, or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 2. For the purpose of incorporating the amendment made by this act to section 626.221, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 626.8734, Florida Statutes, is reenacted to read:

626.8734 Nonresident all-lines adjuster license qualifications.—

(1) The department shall issue a license to an applicant for a nonresident all-lines adjuster license upon determining that the applicant has paid the applicable license fees required under s. 624.501 and:

(b) Has passed to the satisfaction of the department a written Florida all-lines adjuster examination of the scope prescribed in s. 626.241(6); however, the requirement for the examination does not apply to:

1. An applicant who is licensed as an all-lines adjuster

in his or her home state if that state has entered into a reciprocal agreement with the department;

2. An applicant who is licensed as a nonresident all-lines adjuster in a state other than his or her home state and a reciprocal agreement with the appropriate official of the state of licensure has been entered into with the department; or

3. An applicant who holds a certification set forth in s. 626.221(2)(j).

Section 3. This act shall take effect July 1, 2021.

Florida Hurricane Catastrophe Fund

STATE BOARD OF ADMINISTRATION

FLORIDA HURRICANE CATASTROPHE FUND

HOUSE INSURANCE AND BANKING SUBCOMMITTEE

FEBRUARY 17, 2021

Reasons for the Creation of the FHCF

- Created following Hurricane Andrew to provide stability and add capacity to the volatile residential property insurance market
- Legislature recognized that a viable and orderly insurance market is critical for the long-term growth of Florida's economy
- FHCF is critical to the health of the Florida economy both before and after a catastrophic hurricane

Statutory Mission of the FHCF

The FHCF's statutory mission is to provide a stable and ongoing source of timely reimbursement to residential property insurers for a portion of their catastrophic hurricane losses for the purpose of protecting and advancing the state's interest in maintaining residential property insurance capacity.

FHCF Background

- Provides coverage similar to private reinsurance
- Structured as a tax-exempt trust fund
- Intended to be self-supporting with annual premiums and investment income
- Debt rated as AA by all three rating agencies
- Provides a stable and affordable source of coverage
- Administered by the State Board of Administration (SBA)

How Does the FHCF Operate?

- Mandatory participation for insurers writing residential property insurance in Florida. Currently 157 participating insurers. Provides hurricane coverage only (no Flood coverage).
- An actuarially determined premium is collected from the participants based on the exposure they submit to the FHCF. This represents their proportionate share of residential risk exposure in the State.
- This premium determines their retention (like a deductible) and the amount of their reimbursement which is also based on their coverage selection.
- Limited Liability equal to cash and the amount we are able to bond (up to $17B statutory limit)

How Does the FHCF Operate?

- If cash is insufficient to continue to pay claims, the FHCF must issue revenue bonds which are repaid with emergency assessments on a broad base of Florida policyholders.
- No underwriting: The FHCF must provide coverage to each eligible insurer on identical terms
  - No variation in rates
  - No variation in coverages (except to reflect the insurer's selected options)
  - Assures that each participant has its fair share of the finite resources (capacity) available for reimbursement.

Key Principles that enable the FHCF to Fulfill its Mission

The FHCF plays a key role in the Florida residential insurance market. The mission and purpose is accomplished by being sustainable for the long-term and the FHCF has been structured and operated to:

1. Provide a stable, predictable level of reimbursement for all residential property insurers at a stable, predictable price
2. Provide additional on-going insurance capacity for the state
3. Provide sufficient coverage in the year after a major hurricane and lessen the impact of market shocks
4. Accurately reflect financial market capabilities
5. Help build a stable and competitive residential property insurance market for the long term

Key Principles that Enable the FHCF to Fulfill its Mission

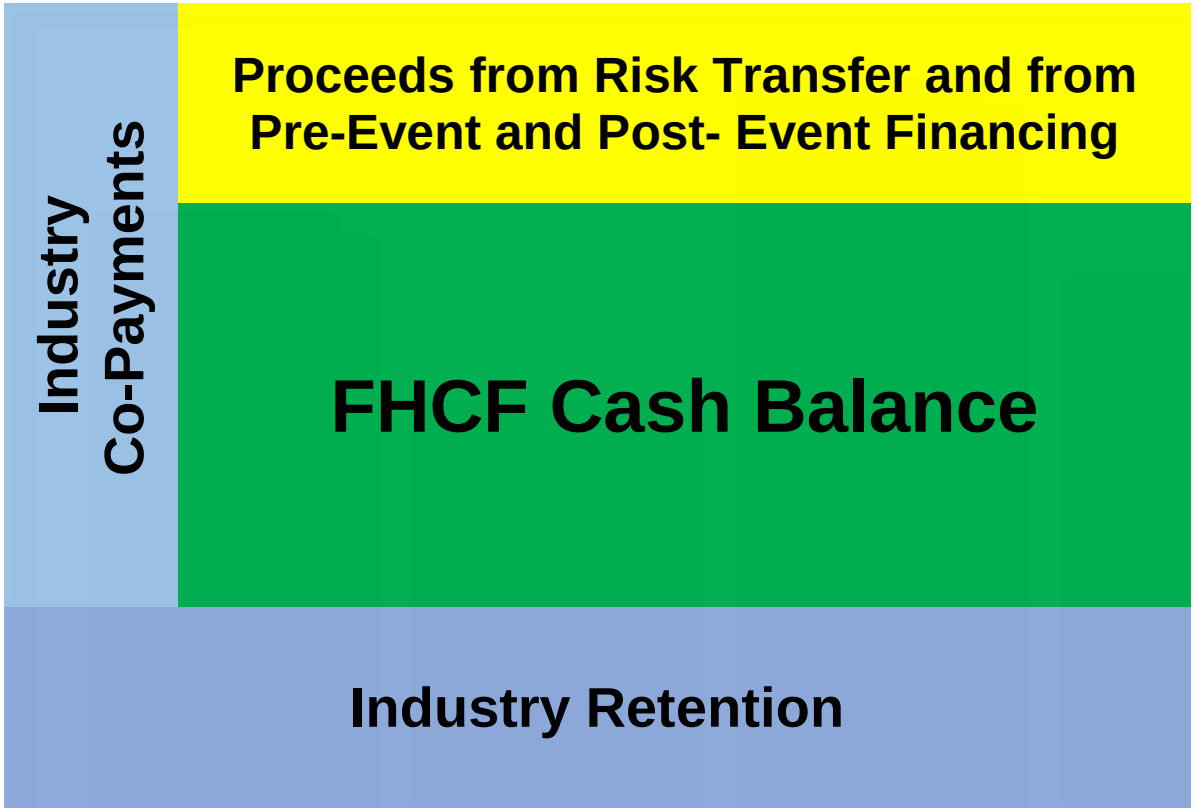
6. The FHCF should limit coverage to genuinely catastrophic losses
7. Allow high probability, low-loss events that can easily be handled by the private sector to remain exclusively with the private sector
8. Be exempt from federal taxation
9. The FHCF should be market-neutral; that is, it should not create competitive advantages or disadvantages for individual insurers

Market Neutrality

Coverage is provided to all residential property insurers on the same terms and prices

- Insurer with limited capitalization can't be denied coverage and pays the same premium as a highly capitalized national insurer
- Each insurer receives its fair share of the FHCF's finite resources
- Insurance company startups in Florida and Citizens depopulation efforts potentially facilitated

Basic Funding Structure of the FHCF



Not Drawn to Scale.

2021/2022 Contract Year

Preliminary Estimates

Not Official
(For Illustrative Purposes Only)

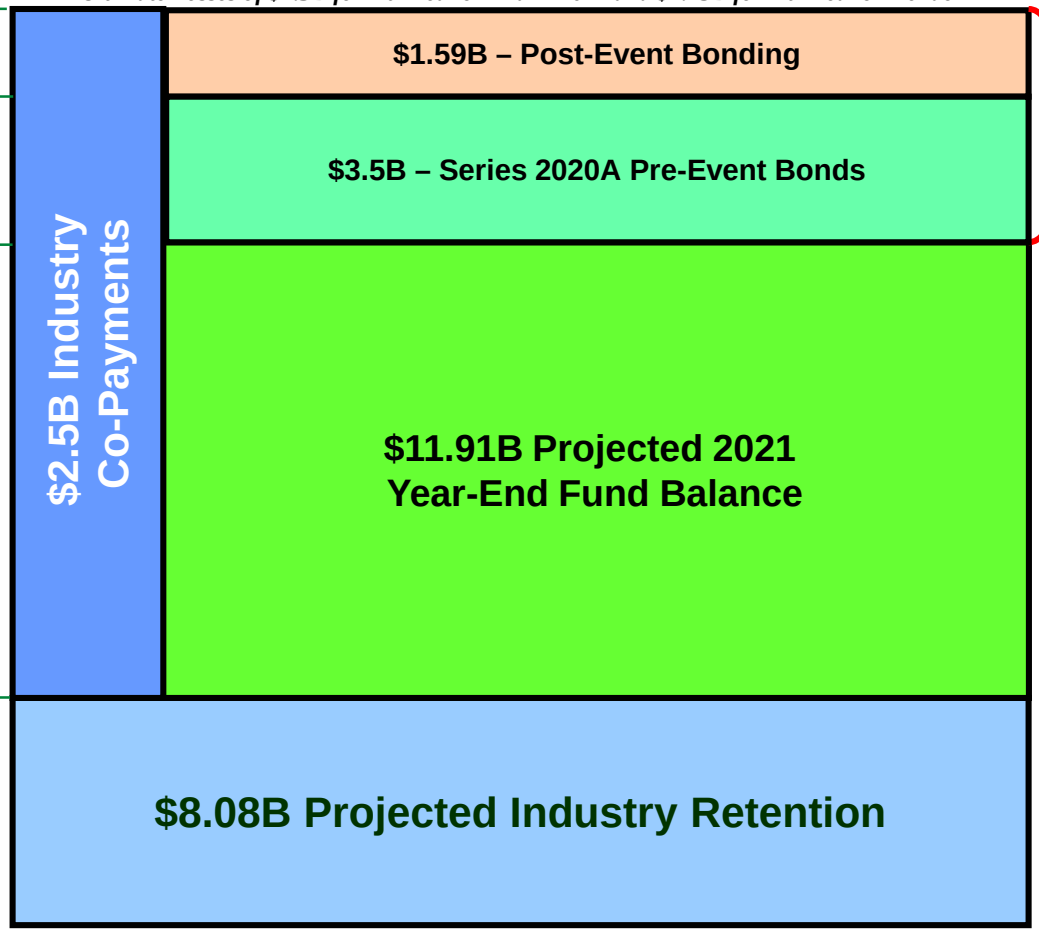
$17B FHCF Capacity

(Loss Adjustment Expense of 10% is included in the capacity)

as of February 1, 2021

Assumption: No loss in Contract Year 2020/2021
Ultimate Losses of $7.3B for Hurricane Irma in 2017 and $1.45B for Hurricane Michael in

Ground Up Losses ($B)	Return Time (Years)	Probability (%)
$26.0	37.8	2.65%
$24.3	34.7	2.88%
$20.6	27.4	3.65%
$8.1	10.4	9.57%



$5.09B Potential Post-Event Bonding

$11.91B Cash
3.50B 2020A Bonds
$15.41B Total Resources

-$17.00B Statutory Limit
$1.59B Potential Bonding Needed

Post-Event Bonding Capacity October 2020

$8.7B

- Represents industry losses. FHCF probabilities are lower at the top loss levels and higher at the lower loss levels. All insurers would need to reach their maximum coverage limit in order to exhaust the last billion of FHCF Coverage. Insurers can trigger coverage below the industry retention.
- Individual company retentions are their share of the industry retention.

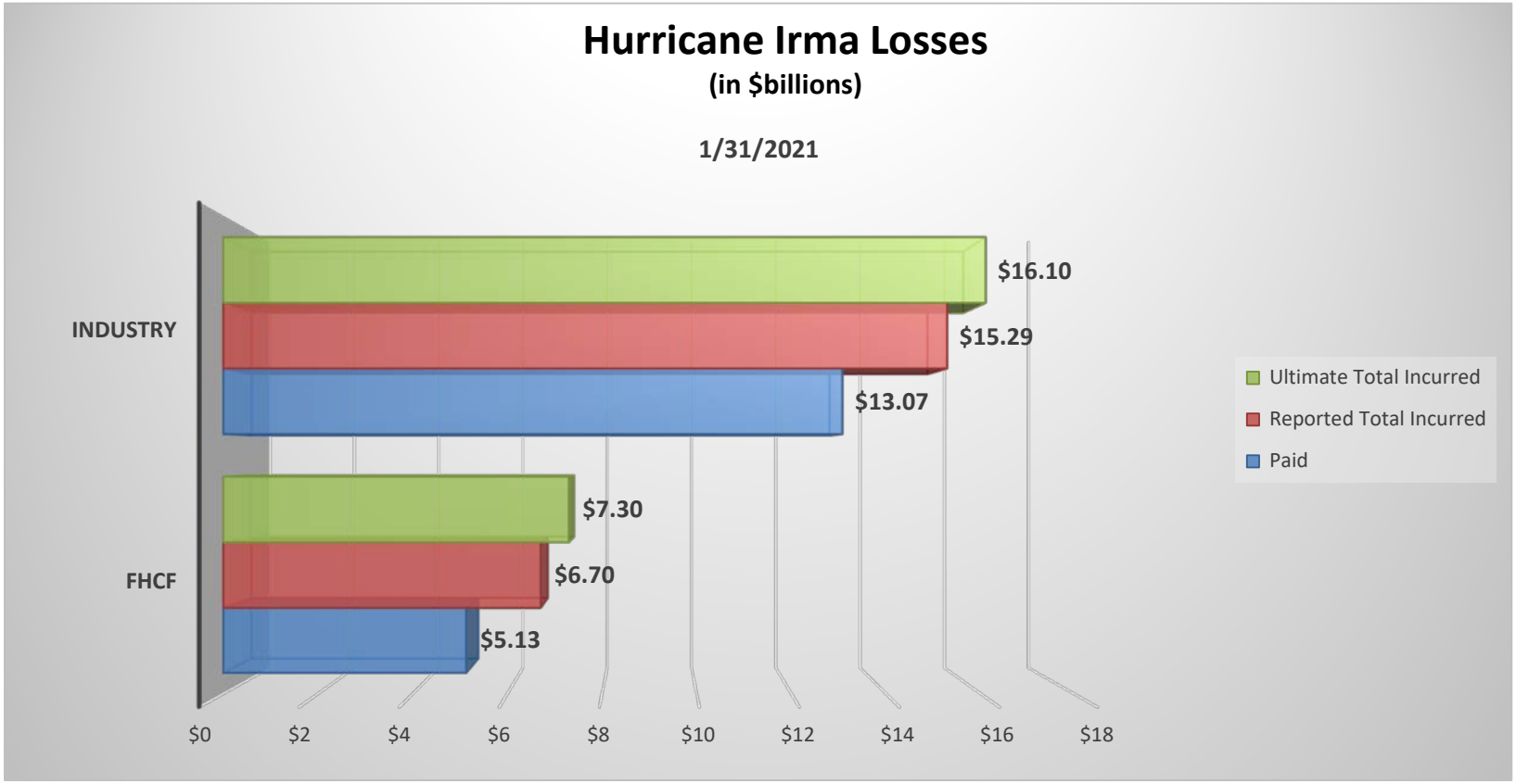
Two Types of FHCF Debt

- Post-event debt
  - Issued following a hurricane event that exhausts the cash balance
  - Tax-exempt or taxable bonds may be used
  - Primary source of revenue to repay the bonds: assessments on most property/casualty premiums
  - Used to reimburse insurers for paid losses
  - $2.651 billion issued to date

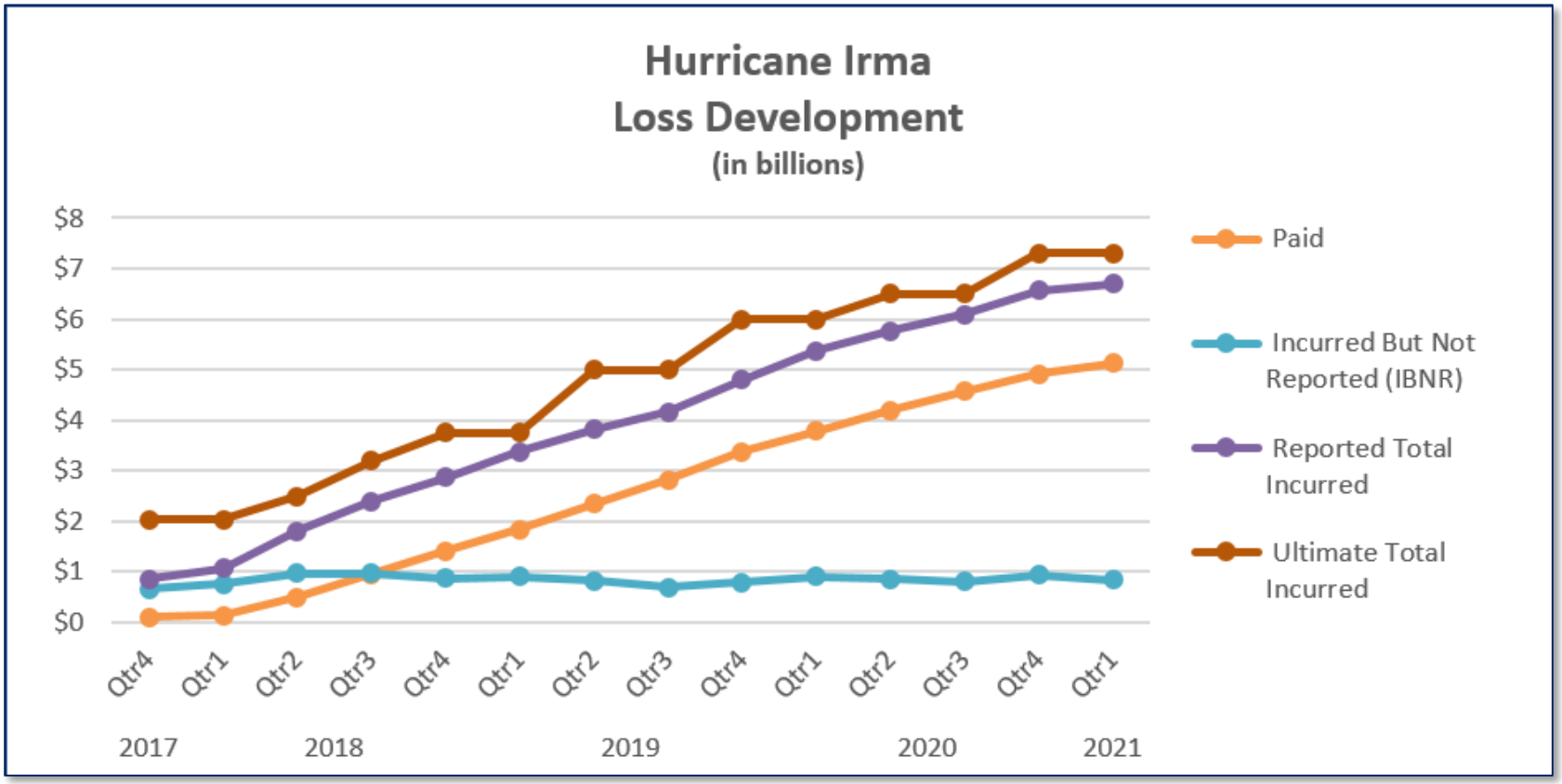
- Pre-event debt
  - Issued before a hurricane event
  - Taxable bonds only
  - Primarily a source of liquidity to enable the FHCF to pay claims on a timely and sufficient basis
  - $13.0 billion issued to date

FHCF HURRICANE LOSSES

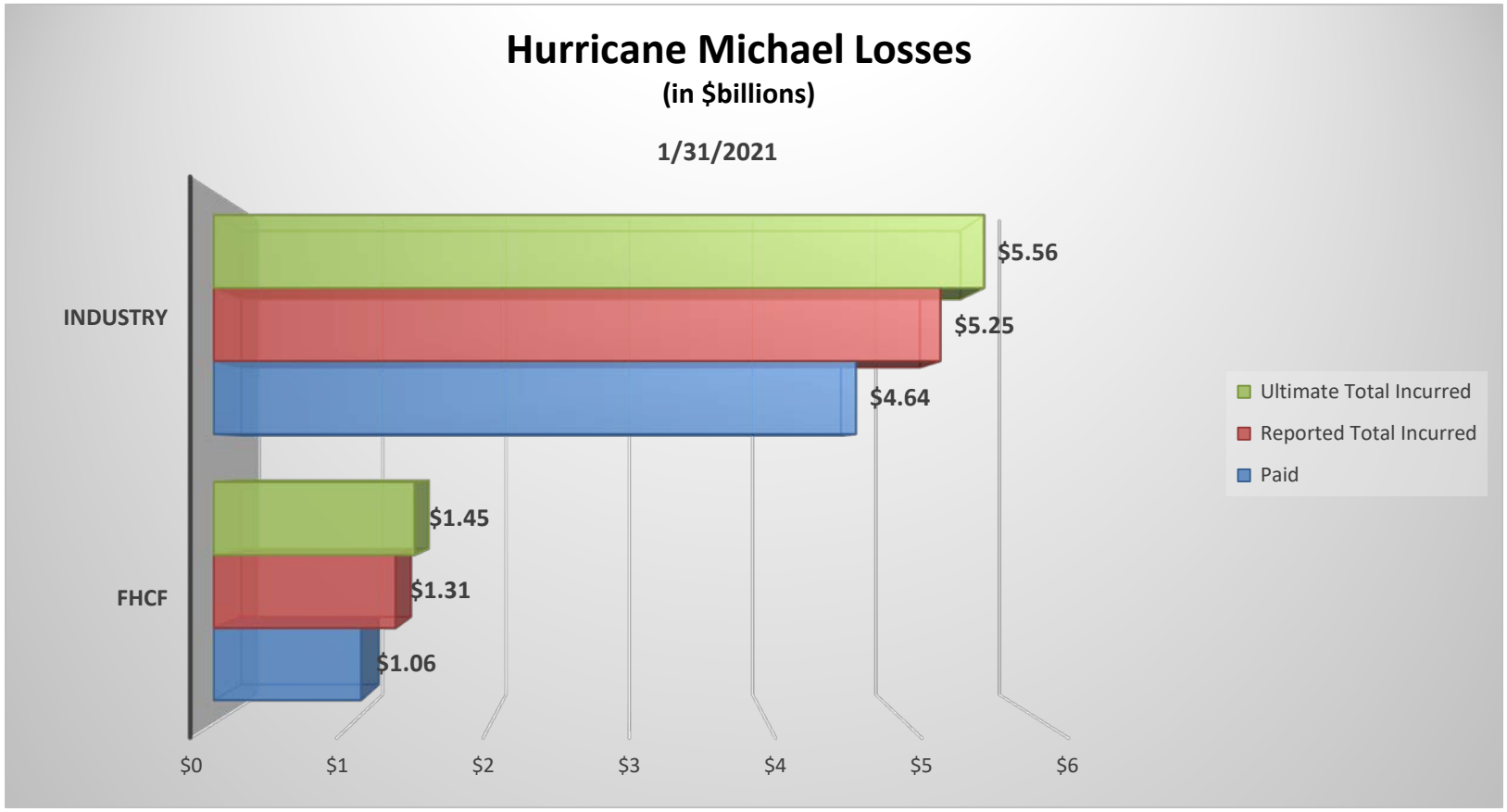
Hurricane Irma – Current Status of Losses



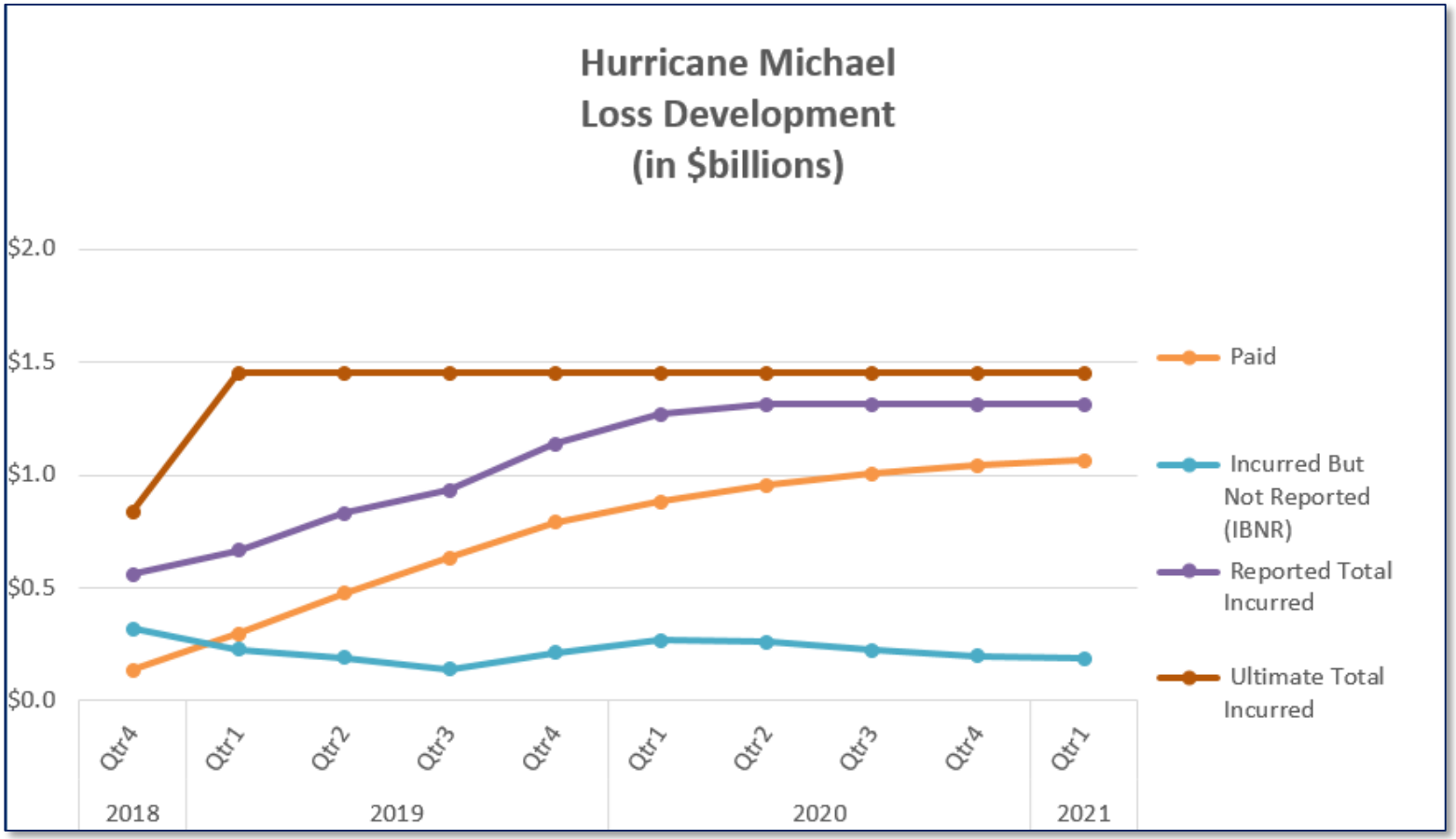
Hurricane Irma – Loss Development



Hurricane Michael – Current Status of Losses



Hurricane Michael – Loss Development



Importance of the FHCF

- The Importance of the FHCF:
  - Created to provide market stability in the wake of dislocations in the Florida economy caused by Hurricane Andrew in 1992 and to help maintain residential property insurance capacity

- Fundamental Principles to accomplish our mission:
  - The FHCF must provide a stable, predictable, and ongoing level of reimbursement for all residential property insurers at a stable and predictable price

Reliance on the FHCF

Insurers have come to rely on the FHCF to provide coverage in extreme situations.



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