

Commerce Committee

Thursday, February 17, 2022
9:00 AM - 11:00 AM
Webster Hall (212 Knott)

Meeting Packet

Chris Sprowls
Speaker

Blaise Ingoglia
Chair

The Florida House of Representatives

Commerce Committee

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Meeting Agenda

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I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- CS/HB 431 Financial Institutions by Insurance & Banking Subcommittee, Barnaby, Snyder
- CS/HB 453 Officer and Firefighter Physical Examination Requirements and Records by Criminal Justice & Public Safety Subcommittee, Duggan, Byrd
- HB 667 Department of Business and Professional Regulation by McClain
- CS/HB 685 Rural Development by State Affairs Committee, Drake
- CS/CS/HB 701 Boating and Vessel Safety by Environment, Agriculture & Flooding Subcommittee, Tourism, Infrastructure & Energy Subcommittee, McFarland, Botana
- HB 705 Mergers and Acquisitions Reporting by Grall
- CS/HB 907 Florida Seaport Transportation and Economic Development Council by Tourism, Infrastructure & Energy Subcommittee, Payne

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

- CS/CS/HB 959 Department of Financial Services by Finance & Facilities Subcommittee, Insurance & Banking Subcommittee, LaMarca

- CS/HB 1005 Advanced Air Mobility by Tourism, Infrastructure & Energy Subcommittee, Fischer

- HB 1023 Insolvent Insurers by Fabricio

- CS/HB 1233 Online Training for Private Security Officers by Regulatory Reform Subcommittee, Fine, Willhite

- CS/HB 1411 Floating Solar Facilities by Local Administration & Veterans Affairs Subcommittee, Avila

- HB 1469 Transportation Facility Designations by Grieco

- HM 1531 Free Trade Agreement Between the United States and the United Kingdom by Barnaby

V. Closing Remarks

VI. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 431 Financial Institutions
SPONSOR(S): Insurance & Banking Subcommittee, Barnaby, Snyder and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1680

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	17 Y, 0 N, As CS	Luczynski	Hinshelwood
2) State Administration & Technology Appropriations Subcommittee	14 Y, 0 N	Lee	Topp
3) Commerce Committee		Hinshelwood	Hamon

SUMMARY ANALYSIS

The Office of Financial Regulation (OFR) regulates banks, credit unions, other financial institutions, finance companies, and the securities industry. The OFR's Division of Financial Institutions charters, licenses, and regulates various entities that engage in financial institution business in Florida, in accordance with the financial institutions codes and the rules promulgated thereunder. The bill makes the following changes to the financial institutions codes:

- Permits a foreign national to appear through video conference, rather than in person, at a hearing regarding the foreign national's proposal to have a controlling interest in a current or proposed state bank or trust company.
- Provides the OFR an additional 90 days to comply with the examination requirement for financial institutions if the federal regulator suspends or cancels a scheduled examination.
- Requires each director of a financial institution to review and sign a report of examination.
- Clarifies provisions relating to a financial institution's acquisition of another financial institution's assets or liabilities.
- Amends the definition of "financial institution" for purposes of the Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act.
- Relocates and clarifies a provision relating to a credit union's reporting of names and addresses of newly elected or appointed officers and directors.
- Permits OFR to approve a bank or trust company based on the intended "target market" rather than just the geographic area from which the bank or trust company intends to draw deposits and accounts.
- Allows the OFR to waive the experience requirement for a proposed president or CEO of a new bank or trust company pursuant to specified considerations about the person and the proposed institution.
- Provides a process for persons to seek approval to own a controlling interest in a financial institution in the event of inheritance of such controlling interest.
- Defines "de novo branch" in the context of interstate bank branching by state-chartered banks.
- Permits certain family trust companies to maintain a deposit account at an insured bank or credit union located anywhere in the United States, regardless of whether the bank or credit union has a principal office or branch in Florida.
- Amends the deadline for a family trust company to file an annual renewal.
- Permits certain international bank offices licensed by OFR to maintain required assets in an insured bank located anywhere in the United States, not just those banks that are located in Florida.
- Updates reference to the name of a list of international jurisdictions that have weak measures to combat money laundering and terrorist financing, and requires a specified licensed entity to suspend its activities relating to a jurisdiction on that list.

The bill has an indeterminate fiscal impact. *See* Fiscal Comments.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Office of Financial Regulation (OFR) regulates banks, credit unions, other financial institutions, finance companies, and the securities industry.[1] The OFR's Division of Financial Institutions charters, licenses, and regulates various entities that engage in financial institution business in Florida, in accordance with the financial institutions codes and the rules promulgated thereunder.[2] The specific chapters under the financial institutions codes are:

- Chapter 655, F.S. – Financial Institutions Generally
- Chapter 657, F.S. – Credit Unions
- Chapter 658, F.S. – Banks and Trust Companies
- Chapter 660, F.S. – Trust Business
- Chapter 662, F.S. – Family Trust Companies
- Chapter 663, F.S. – International Banking
- Chapter 665, F.S. – Capital Stock Associations
- Chapter 667, F.S. – Savings Banks

As of June 30, 2020, the Division of Financial Institutions regulates 197 financial institutions:[3]

- 69 banks
- 66 credit unions
- 21 international bank offices
- 15 trust companies
- 16 family trust companies
- 10 qualified limited service affiliates

Formation and Regulation of a Florida-Chartered Bank or Trust Company

Under the dual banking system in the United States, banks may be chartered under either state or federal law:

- *State-chartered banks* are chartered under the laws of the state in which the bank is headquartered. State-chartered banks have both a state regulator, which for banks chartered by the state of Florida is the OFR, and a federal regulator. The primary federal regulator for state banks that are members of the Federal Reserve System is the Board of Governors of the Federal Reserve System (FRB), and the primary federal regulator for non-member state banks is the Federal Deposit Insurance Corporation (FDIC).[4]
- *National banks* are chartered by the Office of the Comptroller of the Currency (OCC) under the National Bank Act.[5] As such, the OCC is the primary federal regulator for national banks.[6]

A trust company is a business organization, other than a bank, which is authorized by lawful authority to engage in the business of acting as a fiduciary.[7] Trust companies are chartered by states, and the state regulator for trust companies chartered by the state of Florida is the OFR. Trust companies do not have a federal regulator.

[1] S. 20.121(3)(a)2., F.S.
[2] Chs. 655, 657, 658, 660, 662, 663, 665, and 667, F.S.; chs. 69U-100 through 69U-162, F.A.C.
[3] Office of Financial Regulation, *Fast Facts* (2021 ed.), https://flofr.gov/sitePages/documents/FastFacts.pdf.
[4] 12 U.S.C. § 1813(q).
[5] 12 U.S.C. § 38.
[6] 12 U.S.C. § 1813(q).
[7] S. 658.12(20) and (21), F.S.

In order to apply for authority to organize a new state-chartered bank or trust company, the proposed directors must file a written application with the OFR.[8] The application includes such information as the name, residence, and occupation of each proposed director; the name and residence of the proposed president and chief executive officer, if known; the proposed corporate name; the community, including the street and number, if available, where the principal office of the proposed bank is to be located; the total initial capital; the proposed business plan; and pro forma financial statements.[9]

The OFR utilizes the information contained in the application in order to make an investigation of:[10]

1) The character, reputation, financial standing, business experience, and business qualifications of the proposed officers and directors.
2) The need for bank or trust facilities or additional bank or trust facilities, as the case may be, in the primary service area[11] where the proposed bank or trust company is to be located.
3) The ability of the primary service area to support the proposed bank or trust company and all other existing bank or trust facilities in the primary service area.

The OFR evaluates the viability of the business plan in light of current conditions in the primary service area and the metropolitan statistical area or county, as well as in the industry in general.[12]

After making such investigation, the OFR must approve an application if it finds the following:[13]

1) Local conditions indicate reasonable promise of successful operation for the proposed state bank or trust company.
2) The proposed capitalization is adequate, but at least $8 million for a bank and at least $3 million for a trust company.
3) The proposed capital structure is in such form as the OFR may require, subject to certain minimum requirements.
4) Regarding officers and directors:
    a. The proposed officers have sufficient financial institution experience, ability, standing, and reputation and the proposed directors have sufficient business experience, ability, standing, and reputation to indicate reasonable promise of successful operation.
    b. None of the proposed officers or directors has been convicted of, or pled guilty or nolo contendere to, any violation of s. 655.50, F.S., relating to the control of money laundering and terrorist financing; ch. 896, F.S., relating to offenses related to financial institutions; or similar state or federal law.
    c. At least two of the proposed directors who are not also proposed officers have had at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the 5 years before the date of the application. However, if the applicant demonstrates that at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution more than 5 years before the date of the application, the OFR may allow the applicant to have only one director who has direct financial institution experience within the last 5 years.
    d. The proposed president or chief executive officer must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 5 years.
5) The corporate name of the proposed state bank is approved by the OFR.
6) Provision has been made for suitable quarters at the location in the application.

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[8] S. 658.19(1), F.S.; R. 69U-105.202(1), F.A.C.
[9] *Id.*
[10] S. 658.20(1), F.S.
[11] "Primary service area" is defined by agency rule as "the smallest geographical area from which the proposed state bank, savings bank or association expects to draw approximately seventy-five percent of its deposits. Said term also means the smallest geographical area from which a state trust company expects to draw approximately 75 percent of the asset value of its fiduciary accounts. It should be drawn around a natural customer base and should not be unrealistically delineated to exclude competing financial institutions or to include areas of concentrated population." R. 69U-105.001(9), F.A.C.
[12] Office of Financial Regulation (OFR), Agency Analysis of 2022 Senate Bill 1680 (Jan. 12, 2022).
[13] S. 658.21, F.S.

Due to technological advancements, the banking industry has become increasingly interconnected and more digitally driven; many customers no longer engage with their bank exclusively through brick and mortar branches.[14] In order to remain competitive, many financial institutions have adopted online banking platforms and apps.[15] Despite the advent of online banking, the financial institutions codes remain premised on a brick and mortar centric business plan.[16]

In recent years, the banking industry both in Florida and nationally has consolidated.[17] As mergers and acquisitions occur in the banking industry, executives are commonly subjected to non-compete agreements that may last several years.[18] Because a proposed president or chief executive officer must have requisite experience within a 5-year time frame, the current statutory timeframe narrows the pool of otherwise qualified potential executive officers who may serve in that capacity at a new Florida-chartered bank.[19] Groups of individuals seeking to organize a new bank have found the 5-year requirement an impediment to finding quality president or CEO candidates.[20] This timeframe is not required for nationally chartered banks.[21] Further, for existing Florida-chartered banks, the OFR may waive the timeframe after considering the overall experience and expertise of the proposed officer and the condition of the bank or trust company.[22]

Interstate Bank Branching by State-Chartered Banks

A Florida-chartered bank may establish and maintain a de novo branch (new branch) or acquire a branch in a state other than Florida. To do so, the Florida-chartered bank must submit an application and fee to the OFR and receive the OFR's approval.[23]

A bank chartered by a state other than Florida may establish and maintain a de novo branch or acquire a branch in Florida upon compliance with Florida's limited liability company or corporations laws relating to doing business in Florida as a foreign business entity.[24] No application is filed with the OFR.

Currently, Florida law does not contain a definition for "de novo branch". Under FDIC regulations, "de novo branch" is defined[25] as a branch of a state bank which:

1) Is originally established by the State bank as a branch; and
2) Does not become a branch of such bank as a result of:
    a. The acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or
    b. The conversion, merger, or consolidation of any such institution or branch.

Acquisition of Control of a Florida-Chartered Bank or Trust Company

A person or group of persons is considered to have a controlling interest over a state bank or state trust company if any of the following are true:[26]

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[14] OFR, *supra* note 12.
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] "The president, chief executive officer, or any other person, regardless of title, who has equivalent rank or leads the overall operations of [an existing] bank or trust company must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 5 years. *This requirement may be waived by the office after considering the overall experience and expertise of the proposed officer and the condition of the bank or trust company, as reflected in the most recent regulatory examination report and other available data*." S. 658.33(5), F.S. (emphasis added).
[23] S. 658.2953(11)(a) and (b), F.S.
[24] S. 658.2953(11)(c), F.S.
[25] 12 U.S.C. § 1828(d)(4)(C).
[26] Ss. 658.27(2) and 658.28(2), F.S.

- They directly or indirectly own, control, or have the power to vote 25 percent or more of any class of voting securities of the institution.
- They control, in any manner, the election of a majority of the directors, trustees, or other governing body of the institution; they own, control, or have the power to vote 10 percent or more of any class of voting securities and exercise a controlling influence over management or policies of the institution.
- The OFR determines, after notice and opportunity for a hearing, that the person or persons directly or indirectly exercises a controlling influence.

A person or group of persons who proposes to purchase or acquire a controlling interest in a state bank or trust company may not acquire such an interest until they have submitted an application to the OFR and have been approved.[27] In order to be approved, an applicant must have the reputation, character, experience, and financial responsibility to control and operate the bank or trust company in a legal and proper manner and in such a way that would not jeopardize the interests of the stockholders, depositors, and creditors of the institution, or the public.[28] Conviction for certain crimes, such as money laundering, is a disqualifier.[29]

If a foreign national proposes to own or control 10 percent or more of a class of voting securities of a new state bank or trust company, or proposes to acquire a controlling interest in an existing state bank or trust company, the OFR must conduct a public hearing at which the foreign national must appear in person.[30] The failure of a foreign national to appear is grounds for denial.[31]

In certain situations, the presumption of control may be rebutted. A person or group of persons who proposes to own, control, or have the power to vote 10 percent or more of any class of voting securities and exercise a controlling influence over management or policies of the institution may rebut the presumption of control by notifying the OFR of the proposal and presenting information rebutting control at an informal conference.[32] If, after the conference, the OFR determines that such person or group of persons will exercise a controlling influence over the bank, such person or persons will be required to file an application for change of control.[33]

Florida law does not currently contemplate the acquisition of a controlling interest without prior approval.[34] However, not every such acquisition is planned.[35] Shares may pass to an unapproved owner by operation of law, such as by way of inheritance.[36] For example, if a controlling shareholder dies and their shares pass to an unapproved beneficiary, the unapproved beneficiary commits an unavoidable, technical violation of statute upon becoming the owner of the shares.[37]

Formation and Regulation of Credit Unions

Like banks, credit unions accept deposits and make loans, and can be state-chartered or federally-chartered:

- *State-chartered credit unions* may be formed under the Florida Credit Union Act (FCUA), which became law in 1980.[38] The FCUA provides that "[a] credit union is a cooperative, nonprofit association, organized . . . for the purposes of encouraging thrift among its members, creating sources of credit at fair and reasonable rates of interest, and providing an opportunity for its members to use and control their resources on a democratic basis in order to improve their

[27] S. 658.28(1), F.S.
[28] S. 658.28(1)(b), F.S.
[29] S. 658.28(1)(c), F.S.
[30] S. 120.80(3)(a)4., F.S.
[31] *Id.*
[32] Ss. 658.27(2)(c) and 658.28(3), F.S.
[33] S. 658.28(3), F.S.
[34] OFR, *supra* note 12.
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] Ch. 80-258, Laws of Fla.; codified at ch. 657, F.S.

economic and social condition."[39] State-chartered credit unions have both a state regulator, the OFR, and a federal regulator, the National Credit Union Association (NCUA).
- *Federally-chartered credit unions* are chartered under the Federal Credit Union Act of 1934[40] and are regulated by the NCUA.

For Florida-chartered credit unions, the executive officers are elected by the board of directors at the organizational meeting, and new officers may be elected at each annual meeting of the board of directors.[41] The terms of executive officers are one year, or until their successors are chosen and have been duly qualified.[42] Within 30 days after election or appointment, a record of the names and addresses of the members of the board, members of committees, all officers of the credit union, and the credit manager must be filed with the OFR on forms prescribed by the Financial Services Commission (commission).[43]

Formation and Regulation of Family Trust Companies

A family trust company is a corporation or limited liability company that is exclusively owned by family members, acts as a fiduciary to serve family members, and generally may not serve as a fiduciary for a person that is not a family.[44] Family trust companies are usually formed to manage the wealth of high net-worth families in lieu of traditional individual or institutional trustee arrangements for a variety of personal, investment, regulatory, and tax reasons.

There are three types of family trust companies authorized under Florida law:
- *Licensed family trust companies*: A family trust company may elect to be a licensed family trust company if the company desires to be subject to the regulatory oversight of the OFR, and it must file an application for licensure with the OFR.[45] With respect to a licensed family trust company, the OFR is responsible for regulating, supervising, and examining the company.[46]
- *Foreign licensed family trust company*: A foreign licensed family trust company is licensed by and has its principal place of business in a state other than Florida, is operated in accordance with applicable laws of its licensing state, is subject to supervision by the state in which the principal place of business is located, and is not a subsidiary of a foreign country.[47] A foreign licensed family trust company must register with the OFR before beginning operations in this state.[48] The OFR's oversight role is limited to ensuring that fiduciary services provided by the foreign licensed family trust company are restricted to family members and authorized related interests and not to the general public.[49]
- *Registered family trust company*: A family trust company that is not a foreign licensed family trust company and does not apply to become a licensed family trust company must register with the OFR before beginning operations in this state.[50] The OFR's oversight role is limited to ensuring that fiduciary services provided by the registered family trust company are restricted to family members and authorized related interests and not to the general public.[51]

[39] S. 657.003, F.S.
[40] Pub. L. No. 73-467, codified at 12 U.S.C. § 1751 *et seq.*
[41] S. 657.022(1), F.S.
[42] S. 657.022(2), F.S.
[43] S. 657.028(6), F.S. The commission is composed of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. S. 20.121(3), F.S. The commission members serve as OFR's agency head for the purpose of rulemaking. S. 20.121(3)(c), F.S.
[44] S. 662.111(12), F.S.
[45] Ss. 662.102(2) and 662.121, F.S.
[46] S. 662.102(3)(a), F.S.
[47] S. 662.111(15)(c), F.S.
[48] S. 662.122(2), F.S.
[49] S. 662.102(3)(b), F.S.
[50] S. 662.122(1), F.S.
[51] S. 662.102(3)(b), F.S.

All three types of family trust companies must maintain a deposit account with a state-chartered or national financial institution that has a principal or branch office in this state.[52]

Within 45 days after the end of each calendar year, all three types of family trust companies are required to file an annual renewal application.[53] Currently, the timing of renewal does not account for when the initial application was filed. Thus, a family trust company may have to submit a renewal application shortly after becoming licensed or registered in this state.

Formation and Regulation of International Banking Offices

One type of financial institution regulated by the OFR is an international banking corporation (IBC) that transacts business in Florida. An IBC is "a banking corporation organized and licensed under the laws of a foreign country."[54] The OFR does not regulate the IBC, i.e., the home-country depository institution, itself but rather the offices that the IBC establishes in Florida. Florida's regulation of IBC offices are designed to provide for appropriate supervision and regulatory oversight to ensure that financial services activities of IBCs in this state are conducted responsibly and in a safe and sound manner.[55]

IBCs may operate in Florida through a variety of business models, which must be licensed by the OFR[56] and include the following:

- International representative offices - Permissible activities include:[57]
  - Promoting or assisting the deposit-taking, lending, or other financial or banking activities of an IBC;
  - Serving as a liaison in Florida between an IBC and its existing and potential customers;
  - Soliciting business for the IBC and its subsidiaries and affiliates;
  - Providing information to customers concerning their accounts;
  - Answering questions;
  - Receiving applications for extensions of credit and other banking services;
  - Transmitting documents on behalf of customers; and
  - Making arrangements for customers to transact business on their accounts.

  However, a representative office may not conduct any banking or trust business in Florida.[58]
- International administrative offices - Permissible activities include:[59]
  - Administering personnel and operations;
  - Engaging in data processing or recordkeeping activities; and
  - Negotiating, approving, or servicing loans or extensions of credit and investments.

  Additionally, this type of office may engage in any activities permissible for an international representative office.[60]
- International bank agencies - Permissible activities include: [61]
  - Making loans, extensions of credit, or investments;
  - Acting as custodian;
  - Furnishing investment management and investment advisory services to nonresident persons whose principal places of business or domicile are outside the United States and to resident persons with respect to international, foreign, or domestic investments;
  - Receiving specified types of deposits; and
  - With prior authorization from the OFR, accepting appointments as trustee by nonresident persons and exercising trust powers with respect to such fiduciary accounts.

  Additionally, this type of office may engage in any activities permissible for an international administrative office or international representative office.[62]

[52] S. 662.1225(1)(d) and (2)(d), F.S.
[53] S. 662.128(1), F.S.
[54] S. 663.01(6), F.S.
[55] S. 663.001(2), F.S.
[56] Ss. 663.04 and 663.05, F.S.
[57] S. 663.062, F.S.
[58] *Id.*
[59] S. 663.063, F.S.
[60] S. 663.063(2), F.S.
[61] S. 663.061, F.S.; R. 69U-140.008, F.A.C.

- International branches - An international branch has the same rights and privileges as a federally licensed international branch.[63] Additionally, this type of office may engage in any activities permissible for an international bank agency, international administrative office, or international representative office.[64]

If an IBC desires to maintain any of the above offices in this state, the IBC is required to meet minimum licensure requirements, and its offices in Florida are subject to the examination and enforcement authority of the OFR. The OFR may not issue a license to an IBC for one of the above offices unless the IBC: [65]

- In the case of an international bank agency or branch, holds an unrestricted license to receive deposits from the general public in the foreign country under the laws of which the IBC is organized and chartered;
- Has been authorized by the foreign country's bank regulatory authority to establish the proposed international bank office;
- Is adequately supervised by the central bank or bank regulatory agency in the foreign country in which the IBC is organized and chartered; and
- Meets minimum capital requirements.

International bank agencies and international branches are required to maintain dollar deposits or investment securities with one or more banks in this state equal to the greater of:[66]

- $4 million; or
- 7 percent of the total liabilities of the international bank agency or international branch excluding accrued expenses and amounts due and other liabilities to affiliated branches, offices, agencies, or entities.

Formation and Regulation of Florida Offices Performing Services for an International Trust Entity

An international trust entity is an international trust company or organization, or any similar business entity, or an affiliated or subsidiary entity that is licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws where such entity is organized and supervised.[67] A qualified limited service affiliate is a person or entity that is qualified to perform specified permissible activities related to or for the benefit of one or more affiliated international trust entities.[68] Such permissible activities include:[69]

1) Marketing and liaison services related to or for the benefit of the affiliated international trust entities, directed exclusively at professionals and current or prospective nonresident clients of an affiliated international trust entity;
2) Advertising and marketing at trade, industry, or professional events;
3) Transmission of documents between the international trust entity and its current or prospective clients or a designee of such clients; and
4) Transmission of information about the trust or trust holdings of current clients between current clients or their designees and the international trust entity.

A qualified limited service affiliate is prohibited from engaging in the following activities:[70]

1) Advertising and marketing related to or for the benefit of the international trust entity which are directed to the general public;
2) Acting as a fiduciary, including, but not limited to, accepting the fiduciary appointment, executing the fiduciary documents that create the fiduciary relationship, or making discretionary decisions regarding the investment or distribution of fiduciary accounts;

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[62] S. 663.061(1), F.S.
[63] S. 663.064(2), F.S.
[64] S. 663.064(3), F.S.
[65] Ss. 663.05(8) and 663.055(1)-(2), F.S.
[66] S. 663.07, F.S.
[67] S. 663.530(1)(c), F.S.
[68] S. 663.530(1)(f), F.S.
[69] S. 663.531(1), F.S.
[70] S. 663.531(2), F.S.

3) Accepting custody of any trust property or any other good, asset, or thing of value on behalf of the affiliated international trust entity, its subsidiaries or affiliates, or subsidiaries and affiliates of the qualified limited service affiliate;
4) Soliciting business within this state from the general public related to or for the benefit of an affiliated international trust entity;
5) Adding a director, an executive officer, a principal shareholder, a manager, a managing member, or an equivalent position to the qualified limited service affiliate without prior written notification to the OFR;
6) Commencing services for an international trust entity without complying with applicable requirements;
7) Providing services for any international trust entity that is in bankruptcy, conservatorship, receivership, liquidation, or a similar status under the laws of any country; or
8) Otherwise conducting banking or trust business.

In order to qualify as a qualified limited service affiliate, a proposed qualified limited service affiliate must file a written notice that includes the name under which the proposed qualified limited service affiliate will conduct business in this state; a copy of the articles of incorporation or articles of organization, or the equivalent, of the proposed qualified limited service affiliate; the physical address where the proposed qualified limited service affiliate will conduct business; the mailing address of the proposed qualified limited service affiliate; the name and biographical information of each director, executive officer, manager, managing member, or equivalent position of the proposed qualified limited service affiliate; the number of officers and employees of the proposed qualified limited service affiliate; a detailed list and description of the activities to be conducted by the proposed qualified limited service affiliate; background information for certain individuals; information related to each international trust entity for which the proposed qualified limited service affiliate will provide services; and other information as the office reasonably requires.[71] Additionally, the notice to the OFR must include: [72]

- A declaration under penalty of perjury signed by the executive officer, manager, or managing member of the proposed qualified limited service affiliate that, to the best of his or her knowledge the jurisdiction of the international trust entity or its offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the international trust entity is not listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism.
- Proof that the jurisdictions where the international trust entity or its offices, subsidiaries, or any affiliates that are directly involved in or that facilitate the financial services functions, banking, or fiduciary activities of the international trust entity are not listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism.

Under current law, the OFR does not have a means of prohibiting the qualified limited service affiliate from providing services to an international trust entity in a jurisdiction that is included on the Financial Action Task Force's list of international jurisdictions that have weak measures to combat money laundering and terrorist financing.

Examination of Florida Financial Institutions

The OFR is required to conduct an examination of the condition of each state financial institution at least every 18 months, though the OFR may conduct more frequent examinations based upon the risk profile of the financial institution, prior examination results, or significant changes in the institution or its operations.[73] For state financial institutions that have a federal regulator, the OFR is permitted to accept an examination performed by the federal regulator or to conduct a joint or concurrent examination of the state financial institution with the federal regulator.[74] The result is that the OFR may alternate with

[71] S. 663.532(1), F.S.
[72] *Id.*
[73] S. 655.045(1), F.S.
[74] S. 655.045(1)(a), F.S.

the federal regulator such that, while the state financial institution is examined at least every 18 months, the OFR itself performs the examination every 36 months.

Such alternating, joint, or concurrent examination reduces regulatory burden on the financial institutions subject to dual regulation, and the OFR works in coordination with these federal agencies when possible.[75] Many of these federal regulators have policies in place authorizing them to alter examination schedules based on emergency conditions, for example following a major disaster or emergency.[76] Many of the documents which the OFR examiners must analyze are kept in paper files.[77] The lack of digital copies and the confidential nature of these documents often necessitates that examiners be physically present in the financial institution to perform the examination.[78] Most recently, the COVID-19 pandemic up-ended examination schedules; however, Florida examiners commonly face obstacles when attempting to perform in-person examinations during hurricane season, where weather hazards and property damage create an unsafe environment.[79] Unlike the federal regulators, the OFR does not have a method by which it can delay an examination due to such hazards.[80]

After the examination of the state financial institution is complete, a copy of the report of examination must be furnished to the entity examined and must be presented to the board of directors at its next meeting.

Acquisition of Assets or Liabilities of a Financial Institution

Current law requires the OFR's approval for a financial entity to acquire all or substantially all of the assets of, or assume all or any part of the liabilities of, any other financial institution.[81] A mutual financial institution may not sell all or substantially all of its assets to a stock financial institution until it has first converted into a capital stock financial institution.[82] These provisions of current law have generated confusion for the industry, as the term "substantially all" is not defined.[83] The OFR regularly receives questions from industry participants regarding the application of these provisions; financial institutions have asked what percentage meets the threshold of "substantially all," and how to calculate that percentage.[84]

Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act (Act)

The Act is found within the financial institutions codes in s. 655.50, F.S. The purpose of the Act is to require the submission to the OFR of certain reports and the maintenance of certain records of customers, accounts, and transactions involving currency or monetary instruments or suspicious activities if such reports and records deter using financial institutions to conceal, move, or provide proceeds obtained from or intended for criminal or terrorist activities and if such reports and records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.[85] The Act applies to financial institutions as defined under the federal anti-money laundering laws.[86] The federal definition of "financial institution" is very broad and encompasses entities beyond the scope of those regulated under the financial institutions codes. For example, the federal definition includes entities not regulated by the OFR at all, such as a travel agency, a casino, and the United States Postal Service.[87] The federal definition also includes entities which the OFR does regulate but does so under different chapters of law, not the financial institutions codes, such as a broker or dealer in securities (regulated

[75] OFR, *supra* note 12.
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] *Id.*
[80] *Id.*
[81] S. 655.414, F.S.
[82] S. 655.414(6), F.S.
[83] OFR, *supra* note 12.
[84] *Id.*
[85] S. 655.50(2), F.S.
[86] S. 655.50(3)(c), F.S.; 31 U.S.C. § 5312.
[87] 31 U.S.C. § 5312(a)(2)(Q), (V), and (X).

by the OFR under ch. 517, F.S.) and various money services businesses (regulated by the OFR under ch. 560, F.S.).[88] Chapter 560, F.S., relating to money services businesses, contains a statute similar to the Act.[89] Thus, both statutes may be read to apply to these entities, which may generate confusion for the industry.[90]

Effect of the Bill

Examinations of Florida Financial Institutions (Section 4)

The bill provides the OFR an additional 90 days to comply with the examination requirement for state financial institutions if the federal regulator suspends or cancels a previously scheduled examination. In such case, the requirement is deemed met by the federal agency conducting the examination or upon the OFR conducting the examination instead.

The bill clarifies language within the requirement that the report of examination be furnished to the entity examined by replacing the term "entity" with "state financial institution". Additionally, the bill requires that each director review the report and acknowledge receipt of the report and such review by signing and dating the prescribed signature page of the report and returning a copy of the signed page to the OFR.

Acquisition of Assets or Liabilities of a Financial Institution (Section 5)

The bill amends provisions relating to the acquisition of assets and liabilities such that OFR's approval is needed if a financial institution acquires 50 percent or more of the assets of, liabilities of, or a combination of assets and liabilities of, another financial institution. The bill provides that a mutual financial institution may not sell 50 percent or more of its assets to a stock financial institution until it has first converted to a capital stock financial institution. These provisions will no longer include the ambiguous phrase "substantially all". The bill also provides that the percentages of assets or liabilities must be calculated based on the most recent quarterly reporting date.

Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act (Section 6)

The bill amends the definition of "financial institution" for purposes of the Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act by pointing to the definition of "financial institution in s. 655.001, F.S., and removing OFR-regulated entities whose permissible activities do not involve monetary transactions.

Credit Union Reporting of Elected or Appointed Officers, Directors, Etc. (Sections 7 and 8)

The bill relocates and clarifies a provision relating to a credit union's reporting of names and addresses of newly elected or appointed officers, directors, etc. Specifically, the bill provides that, within the 30 days following the annual meeting or any other meeting at which any director, officer, member of the supervisory or audit committee, member of the credit committee, or credit manager is elected or appointed, the credit union must submit to the OFR the names and residence addresses of the elected or appointed person or persons on a form adopted by the commission and provided by the OFR.

Target Market (Sections 9, 10, and 11)

The bill introduces the concept of a "target market" for a proposed state bank or trust company and defines "target market" as the group of clients or potential clients from whom:

(a) A bank or proposed bank expects to draw deposits and to whom the bank or proposed bank focuses or intends to focus its marketing efforts; or

[88] 31 U.S.C. § 5312(a)(2)(H), (J), (K), (R).
[89] S. 560.123, F.S.
[90] OFR, *supra* note 12.

(b) A trust company, a trust department of a bank or association, a proposed trust company, or a proposed trust department of a bank or association expects to draw its fiduciary accounts and to whom the trust company, the trust department of a bank or association, the proposed trust company, or the proposed trust department of a bank or association focuses or intends to focus its marketing efforts.

In addition to the considerations under current law that are based largely on a geographic location, the bill allows the OFR to evaluate the following considerations with regard to approving an application for a new state bank or trust company:

- The need for the target market that the proposed state bank or trust company intends to engage with in business;
- The ability of the target market to support the proposed state bank or trust company and all other existing bank or trust facilities that serve the same target market; and
- Whether the target market conditions indicate reasonable promise of successful operations for the proposed state bank or trust company.

Proposed President or Chief Executive Officer of a New State-Chartered Bank or Trust Company(Section 11)

The bill allows the OFR to waive the experience requirement for a proposed president or CEO of a new state bank or trust company after considering:

1) The adequacy of the overall experience and expertise of the proposed president or chief executive officer;
2) The likelihood of successful operation of the proposed state bank or trust company;
3) The adequacy of the proposed capitalization;
4) The proposed capital structure;
5) The experience of the other proposed officers and directors; and
6) Any other relevant data or information.

Amending this requirement will allow organizers of new state banks the ability to attract higher quality president or CEO candidates and, therefore, make new bank formations more feasible in today's competitive business environment.[91]

Acquisition of Control of a Florida-Chartered Bank or Trust Company (Sections 1 and 12)

When a hearing is required regarding a foreign national's proposal to own or control 10 percent or more of a class of voting securities of a new state bank or trust company, or on a foreign national's proposal to acquire a controlling interest in an existing state bank or trust company, the bill permits the foreign national to participate through video conferencing in lieu of appearing in person.

The bill provides a process for seeking approval to own a controlling interest in a financial institution in the event of inheritance of such controlling interest. If a person or a group of persons, directly or indirectly, acquires a controlling interest in a state bank or state trust company, through probate or trust, the person or group of persons must notify the OFR within 90 days after acquiring such an interest. Such an interest does not give rise to a presumption of control until the person or group of persons votes the shares or the OFR has issued a certificate of approval in response to an application for change in control.

Interstate Bank Branching by State-Chartered Banks (Section 13)

The bill defines "de novo branch" for purposes of Florida law regarding interstate bank branching by Florida-chartered banks and banks chartered by other states. The definition is based on the definition for "de novo branch" within FDIC regulations.

[91] OFR, *supra* note 12.

The bill amends the catchline of a subsection of the statute in order to clarify application of the subsection. The subsection relates to interstate bank branching by both Florida-chartered banks and banks chartered by other states. The catchline currently uses the term "state bank", which is defined to mean a Florida-chartered bank; the term does not capture banks chartered by other states.

Family Trust Companies (Sections 14 and 15)

The bill expands the banking options of a registered family trust company and a licensed family trust company by allowing these entities to maintain a deposit account at an insured bank or credit union located anywhere in the United States, regardless of whether the bank or credit union has a principal office or branch in Florida.

The bill amends the deadline for a family trust company to file an annual renewal such that the renewal application is due no later than 45 days after the anniversary of the filing of either the initial application or the prior year's renewal application.

Location of an International Bank Agency's or International Branch's Required Minimum Assets (Section 16)

The bill expands the banking options for an international bank agency or an international branch regarding the location of required minimum dollar deposits or investment securities. The bill permits these entities to maintain the required assets in an insured bank located anywhere in the United States, not just those banks that are located in Florida.

Qualified Limited Service Affiliates (Section 17)

The bill updates two references to the name of a list of international jurisdictions that have weak measures to combat money laundering and terrorist financing. The bill also requires a qualified limited service affiliate to suspend its activities relating to an international trust entity in a jurisdiction on that list. Such a suspension must remain in effect until the jurisdiction is removed from the list.

Conforming Changes (Sections 2, 3, 18)

The bill conforms cross-references to reflect amendments to the definitions in s. 658.12, F.S.

Reenactment (Section 19)

The bill reenacts s. 658.165, F.S., for the purpose of incorporating the amendment made by the bill to s. 658.20, F.S.

Effective Date (Section 20)

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1. Amends s. 120.80, F.S., relating to exceptions and special requirements; agencies.

Section 2. Amends s. 475.01, F.S., relating to definitions.

Section 3. Amends s. 518.117, F.S., relating to permissible investments of fiduciary funds.

Section 4. Amends s. 655.045, F.S., relating to examinations, reports, and internal audits; penalty.

Section 5. Amends s. 655.414, F.S., relating to acquisition of assets; assumption of liabilities.

Section 6. Amends s. 655.50, F.S., relating to Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act.

Section 7. Amends s. 657.021, F.S., relating to board of directors; executive committee.

Section 8. Amends s. 657.028, F.S., relating to activities of directors, officers, committee members, employees, and agents.

Section 9. Amends s. 658.12, F.S., relating to definitions.

Section 10. Amends s. 658.20, F.S., relating to investigation by office.

Section 11. Amends s. 658.21, F.S., relating to approval of application; findings required.

Section 12. Amends s. 658.28, F.S., relating to acquisition of control of a bank or trust company.

Section 13. Amends s. 658.2953, F.S., relating to interstate branching.

Section 14. Amends s. 662.1225, F.S., relating to Requirements for a family trust company, licensed family trust company, or foreign licensed family trust company.

Section 15. Amends s. 662.128, F.S., relating to annual renewal.

Section 16. Amends s. 663.07, F.S., relating to asset maintenance or capital equivalency.

Section 17. Amends s. 663.532, F.S., relating to qualification.

Section 18. Amends s. 736.0802, F.S., relating to duty of loyalty.

Section 19. Reenacts s. 658.165, F.S., relating to banker's banks; formation; applicability of financial institutions codes; exceptions.

Section 20. Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may encourage and attract the formation of new financial institutions as Florida-chartered institutions, in which case the bill would have a positive impact on investment, employment, economic

growth, and consumer access to financial services. However, the impact to the private sector is indeterminate.

D. FISCAL COMMENTS:

The bill may encourage and attract the formation of new financial institutions as Florida-chartered institutions, in which case the OFR's revenues would be positively affected through increased application fees and annual assessments. OFR's expenditures would also increase for the cost of regulation and oversight of such new institutions. However, the overall fiscal impact is indeterminate.

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:

Section 7 requires the commission to adopt a form for a credit union to report to OFR the names and residence addresses of persons elected or appointed at the credit union's annual meeting.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 14 of the bill expands the banking options of a registered family trust company and a licensed family trust company but does not do so for a foreign licensed family trust company. The sponsor has indicated an intent to address this issue.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2022, the Insurance & Banking Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from HB 431 in the following ways:

- Aligns the House bill with the Senate bill by narrowing the scope of the bill to include only provisions relating to financial institutions.
- Amends the bill's title to reflect the narrower scope of the bill.
- Clarifies how the OFR's examination requirement for a financial institution is met in the event that a financial institution's federal regulator suspends or cancels a previously scheduled examination of the financial institution.
- Requires a financial institution's directors to acknowledge their review, not just receipt, of a report of examination.
- Clarifies provisions relating to a financial institution's acquisition of another financial institution's assets or liabilities.
- Allows the OFR to waive the experience requirement for a proposed president or CEO of a new bank or trust company pursuant to specified considerations about the person and the proposed institution.
- Clarifies the definition of "de novo branch" in the context of interstate bank branching by state-chartered banks.
- Reenacts s. 658.165(1), F.S.
- Changes the bill's effective date from October 1, 2022, to July 1, 2022.
- Removes the appropriation and makes other technical changes.

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

A bill to be entitled

An act relating to financial institutions; amending s. 120.80, F.S.; providing that the failure of foreign nationals to participate through video conference in certain hearings is grounds for denial of certain applications; amending s. 475.01, F.S.; conforming a cross-reference; amending s. 518.117, F.S.; conforming a cross-reference; amending s. 655.045, F.S.; revising the circumstances under which the Office of Financial Regulation is required to conduct certain examinations; authorizing the office to delay examinations of state financial institutions under certain circumstances; specifying that examination requirements are deemed met under certain circumstances; requiring copies of certain examination reports to be furnished to state financial institutions; requiring certain directors to review such reports and acknowledge receipt of such reports and reviews; amending s. 655.414, F.S.; revising the entities that may acquire liabilities and assets, and the liabilities and assets that may be acquired, according to certain procedures, conditions, and limitations; specifying the basis for calculating percentages of assets or liabilities; specifying the basis for calculating percentages of assets or

liabilities; revising the quantity of assets a mutual financial institution may not sell to a stock financial institution, subject to certain conditions; amending s. 655.50, F.S.; revising the definition of the term "financial institution"; amending s. 657.021, F.S.; requiring credit unions to submit specified information to the office within a specified timeframe after certain meetings; amending s. 657.028, F.S.; deleting a provision relating to filing specified credit union information with the office; amending s. 658.12, F.S.; defining the term "target market"; amending s. 658.20, F.S.; requiring the office, upon receiving applications for authority to organize a bank or trust company, to investigate the need for a target market and the ability of the primary service area or target market to support proposed and existing bank or trust facilities; amending s. 658.21, F.S.; revising financial institution application approval requirements to include consideration of target market conditions; authorizing the office to waive a requirement that certain proposed financial institution presidents or chief executive officers have certain experience within a specified timeframe under certain circumstances; amending s. 658.28, F.S.; requiring a person or group to notify the office

within a specified timeframe upon acquiring a controlling interest in a state bank or state trust company; amending s. 658.2953, F.S.; defining the term "de novo branch"; amending s. 662.1225, F.S.; revising the type of institution with which certain family trust companies are required to maintain a deposit account; amending s. 662.128, F.S.; revising the timeframe for filing renewal applications for certain family trust companies; amending s. 663.07, F.S.; revising the banks with which international bank agencies and international branches are required to maintain certain deposits or investment securities; amending s. 663.532, F.S.; revising references to lists of jurisdictions used for qualifying qualified limited service affiliates; requiring qualified limited service affiliates to suspend certain permissible activities under certain circumstances; specifying that such suspensions remain in effect until certain conditions are met; amending s. 736.0802, F.S.; conforming a cross-reference; reenacting s. 658.165(1), F.S., relating to banker's banks, for the purpose of incorporating amendments made by the act; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(3) OFFICE OF FINANCIAL REGULATION.—

(a) Notwithstanding s. 120.60(1), in proceedings for the issuance, denial, renewal, or amendment of a license or approval of a merger pursuant to title XXXVIII:

1.a. The Office of Financial Regulation of the Financial Services Commission shall have published in the Florida Administrative Register notice of the application within 21 days after receipt.

b. Within 21 days after publication of notice, any person may request a hearing. Failure to request a hearing within 21 days after notice constitutes a waiver of any right to a hearing. The Office of Financial Regulation or an applicant may request a hearing at any time prior to the issuance of a final order. Hearings shall be conducted pursuant to ss. 120.569 and 120.57, except that the Financial Services Commission shall by rule provide for participation by the general public.

2. Should a hearing be requested as provided by sub-subparagraph 1.b., the applicant or licensee shall publish at its own cost a notice of the hearing in a newspaper of general circulation in the area affected by the application. The Financial Services Commission may by rule specify the format and

size of the notice.

3. Notwithstanding s. 120.60(1), and except as provided in subparagraph 4., an application for license for a new bank, new trust company, new credit union, new savings and loan association, or new licensed family trust company must be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. An application for such a license or for acquisition of such control which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is later, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license and approval of insurance of accounts for a new bank, a new savings and loan association, a new credit union, or a new licensed family trust company by the appropriate insurer.

4. In the case of an application for license to establish a new bank, trust company, or capital stock savings association in which a foreign national proposes to own or control 10 percent or more of any class of voting securities, and in the case of an application by a foreign national for approval to acquire control of a bank, trust company, or capital stock savings association, the Office of Financial Regulation shall request that a public hearing be conducted pursuant to ss.

120.569 and 120.57. Notice of such hearing shall be published by the applicant as provided in subparagraph 2. The failure of such foreign national to appear personally at or to participate through video conference in the hearing shall be grounds for denial of the application. Notwithstanding s. 120.60(1) and subparagraph 3., every application involving a foreign national shall be approved or denied within 1 year after receipt of the original application or any timely requested additional information or the correction of any errors or omissions, or within 30 days after the conclusion of the public hearing on the application, whichever is later.

Section 2. Subsection (4) of section 475.01, Florida Statutes, is amended to read:

475.01 Definitions.—

(4) A broker acting as a trustee of a trust created under chapter 689 is subject to the provisions of this chapter unless the trustee is a bank, state or federal association, or trust company possessing trust powers as defined in s. 658.12 ~~s. 658.12(23)~~.

Section 3. Section 518.117, Florida Statutes, is amended to read:

518.117 Permissible investments of fiduciary funds.—A fiduciary that is authorized by lawful authority to engage in trust business as defined in s. 658.12 ~~s. 658.12(20)~~ may invest fiduciary funds in accordance with s. 660.417 so long as the

investment otherwise complies with this chapter.

Section 4. Paragraph (a) of subsection (1) and subsection (4) of section 655.045, Florida Statutes, are amended, and paragraph (f) is added to subsection (1) of that section, to read:

655.045 Examinations, reports, and internal audits; penalty.—

(1) The office shall conduct an examination of the condition of each state financial institution at least every 18 months. The office may conduct more frequent examinations based upon the risk profile of the financial institution, prior examination results, or significant changes in the institution or its operations. The office may use continuous, phase, or other flexible scheduling examination methods for very large or complex state financial institutions and financial institutions owned or controlled by a multi-financial institution holding company. The office shall consider examination guidelines from federal regulatory agencies in order to facilitate, coordinate, and standardize examination processes.

(a) The office may accept an examination of a state financial institution made by an appropriate federal regulatory agency or may conduct a joint or concurrent examination of the institution with the federal agency. However, if the office accepts an examination in accordance with this paragraph, the office shall conduct at least once during each 36-month period

beginning July 1, 2023 ~~2014~~, a subsequent ~~the office shall conduct an~~ examination of each state financial institution in a manner that allows the preparation of a complete examination report not subject to the right of a federal or other non-Florida entity to limit access to the information contained therein. The office may furnish a copy of all examinations or reviews made of financial institutions or their affiliates to the state or federal agencies participating in the examination, investigation, or review, or as otherwise authorized under s. 655.057.

(f) In coordinating an examination required under this section, if a federal agency suspends or cancels a previously scheduled examination of a state financial institution, the office has an additional 90 days to meet the examination requirement of this section. In such case, the requirement is deemed met by the federal agency conducting the examination or upon the office conducting the examination instead.

(4) A copy of the report of each examination must be furnished to the state financial institution ~~entity~~ examined and presented to the board of directors at its next regular or special meeting. Each director shall review the report and acknowledge receipt of the report and such review by signing and dating the prescribed signature page of the report and returning a copy of the signed page to the office.

Section 5. Section 655.414, Florida Statutes, is amended

to read:

655.414 Acquisition of assets; assumption of liabilities.—With prior approval of the office, and upon such conditions as the commission prescribes by rule, a financial institution ~~entity~~ may acquire 50 percent or more ~~all or substantially all~~ of the assets of, liabilities of, or a combination of assets and ~~or assume all or any part of the~~ liabilities of, ~~,~~ any other financial institution in accordance with the procedures and subject to the following conditions and limitations:

(1) CALCULATION OF ASSET OR LIABILITY PERCENTAGES.—Percentages of assets or liabilities must be calculated based on the most recent quarterly reporting date.

(2) ADOPTION OF A PLAN.—The board of directors of the acquiring or assuming financial entity and the board of directors of the transferring financial institution must adopt, by a majority vote, a plan for such acquisition, assumption, or sale on terms that are mutually agreed upon. The plan must include:

(a) The names and types of financial institutions involved.

(b) A statement setting forth the material terms of the proposed acquisition, assumption, or sale, including the plan for disposition of all assets and liabilities not subject to the plan.

(c) A provision for liquidation, if applicable, of the

transferring financial institution upon execution of the plan, or a provision setting forth the business plan for the continued operation of each financial institution after the execution of the plan.

(d) A statement that the entire transaction is subject to written approval of the office and approval of the members or stockholders of the transferring financial institution.

(e) If a stock financial institution is the transferring financial institution and the proposed sale is not for cash, a clear and concise statement that dissenting stockholders of the institution are entitled to the rights set forth in s. 658.44(4) and (5).

(f) The proposed effective date of the acquisition, assumption, or sale and such other information and provisions as necessary to execute the transaction or as required by the office.

(3) ~~(2)~~ APPROVAL OF OFFICE.—Following approval by the board of directors of each participating financial institution, the plan, together with certified copies of the authorizing resolutions adopted by the boards and a completed application with a nonrefundable filing fee, must be forwarded to the office for approval or disapproval. The office shall approve the plan of acquisition, assumption, or sale if it appears that:

(a) The resulting financial entity or entities would have an adequate capital structure in relation to their activities

and their deposit liabilities;

(b) The plan is fair to all parties; and

(c) The plan is not contrary to the public interest.

If the office disapproves the plan, it shall state its objections and give the parties an opportunity to amend the plan to overcome such objections.

(4) ~~(3)~~ VOTE OF MEMBERS OR STOCKHOLDERS.—If the office approves the plan, it may be submitted to the members or stockholders of the transferring financial institution at an annual meeting or at a special meeting called to consider such action. Upon a majority vote of the total number of votes eligible to be cast or, in the case of a credit union, a majority vote of the members present at the meeting, the plan is adopted.

(5) ~~(4)~~ ADOPTED PLAN; CERTIFICATE; ABANDONMENT.—

(a) If the plan is adopted by the members or stockholders of the transferring financial institution, the president or vice president and the cashier, manager, or corporate secretary of such institution shall submit the adopted plan to the office, together with a certified copy of the resolution of the members or stockholders approving it.

(b) Upon receipt of the certified copies and evidence that the participating financial institutions have complied with all applicable state and federal law and rules, the office shall

certify, in writing, to the participants that the plan has been approved.

(c) Notwithstanding approval of the members or stockholders or certification by the office, the board of directors of the transferring financial institution may abandon such a transaction without further action or approval by the members or stockholders, subject to the rights of third parties under any contracts relating thereto.

(6) ~~(5)~~ FEDERALLY CHARTERED OR OUT-OF-STATE INSTITUTION AS A PARTICIPANT.—If one of the participants in a transaction under this section is a federally chartered financial institution or an out-of-state financial institution, all participants must also comply with requirements imposed by federal and other state law for the acquisition, assumption, or sale and provide evidence of such compliance to the office as a condition precedent to the issuance of a certificate authorizing the transaction; however, if the purchasing or assuming financial institution is a federal or out-of-state state-chartered financial institution and the transferring state financial entity will be liquidated, approval of the office is not required.

(7) ~~(6)~~ STOCK INSTITUTION ACQUIRING MUTUAL INSTITUTION.—A mutual financial institution may not sell 50 percent or more ~~all or substantially all~~ of its assets to a stock financial institution until it has first converted into a capital stock

financial institution in accordance with s. 665.033(1) and (2). For this purpose, references in s. 665.033(1) and (2) to associations also refer to credit unions but, in the case of a credit union, the provision concerning proxy statements does not apply.

Section 6. Paragraph (c) of subsection (3) of section 655.50, Florida Statutes, is amended to read:

655.50 Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act.—

(3) As used in this section, the term:

(c) "Financial institution" has the same meaning as in s. 655.005(1)(i), excluding an international representative office, an international administrative office, or a qualified limited service affiliate ~~means a financial institution, as defined in 31 U.S.C. s. 5312, as amended, including a credit card bank, located in this state~~.

Section 7. Present subsections (2) through (8) of section 657.021, Florida Statutes, are redesignated as subsections (3) through (9), respectively, and a new subsection (2) is added to that section, to read:

657.021 Board of directors; executive committee responsibilities; oaths; reports to the office.—

(2) Within the 30 days following the annual meeting or any other meeting at which any director, officer, member of the supervisory or audit committee, member of the credit committee,

or credit manager is elected or appointed, the credit union shall submit to the office the names and residence addresses of the elected or appointed persons on a form adopted by the commission and provided by the office.

Section 8. Subsection (6) of section 657.028, Florida Statutes, is amended to read:

657.028 Activities of directors, officers, committee members, employees, and agents.—

~~(6) Within 30 days after election or appointment, a record of the names and addresses of the members of the board, members of committees, all officers of the credit union, and the credit manager shall be filed with the office on forms prescribed by the commission.~~

Section 9. Present subsections (20) through (24) of section 658.12, Florida Statutes, are redesignated as subsections (21) through (25), respectively, and a new subsection (20) is added to that section, to read:

658.12 Definitions.—Subject to other definitions contained in the financial institutions codes and unless the context otherwise requires:

(20) "Target market" means the group of clients or potential clients from whom:

(a) A bank or proposed bank expects to draw deposits and to whom the bank or proposed bank focuses or intends to focus its marketing efforts; or

(b) A trust company, a trust department of a bank or association, a proposed trust company, or a proposed trust department of a bank or association expects to draw its fiduciary accounts and to whom the trust company, the trust department of a bank or association, the proposed trust company, or the proposed trust department of a bank or association focuses or intends to focus its marketing efforts.

Section 10. Paragraphs (b) and (c) of subsection (1) of section 658.20, Florida Statutes, are amended to read:

658.20 Investigation by office.—

(1) Upon the filing of an application, the office shall make an investigation of:

(b) The need for bank or trust facilities or additional bank or trust facilities, as the case may be, in the primary service area where the proposed bank or trust company is to be located or the need for the target market that the bank or trust company intends to engage with in business.

(c) The ability of the primary service area or target market to support the proposed bank or trust company and all other existing bank or trust facilities that serve the same primary service area or target market ~~in the primary service area~~.

Section 11. Subsections (1) and (4) of section 658.21, Florida Statutes, are amended to read:

658.21 Approval of application; findings required.—The

office shall approve the application if it finds that:

(1) Local and target market conditions indicate reasonable promise of successful operation for the proposed state bank or trust company. In determining whether an applicant meets the requirements of this subsection, the office shall consider all materially relevant factors, including:

(a) The purpose, objectives, and business philosophy of the proposed state bank or trust company.

(b) The projected financial performance of the proposed bank or trust company.

(c) The feasibility of the proposed bank or trust company, as stated in the business plan, particularly with respect to asset and liability growth and management.

(4)(a) The proposed officers have sufficient financial institution experience, ability, standing, and reputation and the proposed directors have sufficient business experience, ability, standing, and reputation to indicate reasonable promise of successful operation, and none of the proposed officers or directors has been convicted of, or pled guilty or nolo contendere to, any violation of s. 655.50, relating to the control of money laundering and terrorist financing; chapter 896, relating to offenses related to financial institutions; or similar state or federal law.

(b) At least two of the proposed directors who are not also proposed officers must have had at least 1 year of direct

experience as an executive officer, regulator, or director of a financial institution within the 5 years before the date of the application. However, if the applicant demonstrates that at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution more than 5 years before the date of the application, the office may modify the requirement and allow the applicant to have only one director who has direct financial institution experience within the last 5 years.

(c) The proposed president or chief executive officer must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 5 years. The office may waive this requirement after considering:

1. The adequacy of the overall experience and expertise of the proposed president or chief executive officer;

2. The likelihood of successful operation of the proposed state bank or trust company pursuant to subsection (1);

3. The adequacy of the proposed capitalization under subsection (2);

4. The proposed capital structure under subsection (3);

5. The experience of the other proposed officers and directors; and

6. Any other relevant data or information.

Section 12. Present subsections (2), (3), and (4) of

section 658.28, Florida Statutes, are redesignated as subsections (3), (4), and (5), respectively, and a new subsection (2) is added to that section, to read:

658.28 Acquisition of control of a bank or trust company.—

(2) If a person or a group of persons, directly or indirectly, acquires a controlling interest in a state bank or state trust company, as contemplated by this section, through probate or trust, the person or group of persons shall notify the office within 90 days after acquiring such an interest. Such an interest does not give rise to a presumption of control until the person or group of persons votes the shares or the office has issued a certificate of approval in response to an application pursuant to subsection (1).

Section 13. Present paragraphs (a), (b), and (c) of subsection (11) of section 658.2953, Florida Statutes, are redesignated as paragraphs (b), (c), and (d), respectively, and a new paragraph (a) is added to that subsection, to read:

658.2953 Interstate branching.—

(11) DE NOVO INTERSTATE BRANCHING ~~BY STATE BANKS~~.—

(a) As used in this subsection, the term "de novo branch" means a branch of a bank which is originally established by the bank as a branch and does not become a branch of such bank as a result of:

1. The bank's acquisition of another bank or of a branch of another bank; or

2. The conversion, merger, or consolidation of any bank or branch.

Section 14. Paragraph (d) of subsection (1) of section 662.1225, Florida Statutes, is amended to read:

662.1225 Requirements for a family trust company, licensed family trust company, or foreign licensed family trust company.—

(1) A family trust company or a licensed family trust company shall maintain:

(d) A deposit account with:

1. A bank located in the United States and insured by the Federal Deposit Insurance Corporation; or

2. A credit union located in the United States and insured by the National Credit Union Administration ~~with a state-chartered or national financial institution that has a principal or branch office in this state~~.

Section 15. Subsection (1) of section 662.128, Florida Statutes, is amended to read:

662.128 Annual renewal.—

(1) ~~Within 45 days after the end of each calendar year,~~ A family trust company, licensed family trust company, or foreign licensed family trust company shall file an ~~its~~ annual renewal application with the office on an annual basis no later than 45 days after the anniversary of the filing of either the initial application or the prior year's renewal application.

Section 16. Subsection (1) of section 663.07, Florida

Statutes, is amended to read:

663.07 Asset maintenance or capital equivalency.—

(1) Each international bank agency and international branch shall:

(a) Maintain with one or more banks insured by the Federal Deposit Insurance Corporation and located within the United States ~~in this state~~, in such amounts as the office specifies, evidence of dollar deposits or investment securities of the type that may be held by a state bank for its own account pursuant to s. 658.67. The aggregate amount of dollar deposits and investment securities for an international bank agency or international branch shall, at a minimum, equal the greater of:

1. Four million dollars; or

2. Seven percent of the total liabilities of the international bank agency or international branch excluding accrued expenses and amounts due and other liabilities to affiliated branches, offices, agencies, or entities; or

(b) Maintain other appropriate reserves, taking into consideration the nature of the business being conducted by the international bank agency or international branch.

The commission shall prescribe, by rule, the deposit, safekeeping, pledge, withdrawal, recordkeeping, and other arrangements for funds and securities maintained under this subsection. The deposits and securities used to satisfy the

capital equivalency requirements of this subsection shall be held, to the extent feasible, in one or more state or national banks located in this state or in a federal reserve bank.

Section 17. Present subsections (4), (5), and (6) of section 663.532, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, paragraphs (i) and (j) of subsection (1) are amended, and a new subsection (4) is added to that section, to read:

663.532 Qualification.—

(1) To qualify as a qualified limited service affiliate under this part, a proposed qualified limited service affiliate must file a written notice with the office, in the manner and on a form prescribed by the commission. Such written notice must include:

(i) A declaration under penalty of perjury signed by the executive officer, manager, or managing member of the proposed qualified limited service affiliate that, to the best of his or her knowledge:

1. No employee, representative, or agent provides, or will provide, banking services; promotes or sells, or will promote or sell, investments; or accepts, or will accept, custody of assets.

2. No employee, representative, or agent acts, or will act, as a fiduciary in this state, which includes, but is not limited to, accepting the fiduciary appointment, executing the

fiduciary documents that create the fiduciary relationship, or making discretionary decisions regarding the investment or distribution of fiduciary accounts.

3. The jurisdiction of the international trust entity or its offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the international trust entity is not listed on the Financial Action Task Force's list of High-Risk Jurisdictions subject to a Call for Action or list of Jurisdictions under Increased Monitoring ~~Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism~~.

(j) For each international trust entity that the proposed qualified limited service affiliate will provide services for in this state, the following:

1. The name of the international trust entity;

2. A list of the current officers and directors of the international trust entity;

3. Any country where the international trust entity is organized or authorized to do business;

4. The name of the home-country regulator;

5. Proof that the international trust entity has been authorized by charter, license, or similar authorization by its home-country regulator to engage in trust business;

6. Proof that the international trust entity lawfully

exists and is in good standing under the laws of the jurisdiction where it is chartered, licensed, or organized;

7. A statement that the international trust entity is not in bankruptcy, conservatorship, receivership, liquidation, or in a similar status under the laws of any country;

8. Proof that the international trust entity is not operating under the direct control of the government or the regulatory or supervisory authority of the jurisdiction of its incorporation, through government intervention or any other extraordinary actions, and confirmation that it has not been in such a status or under such control at any time within the prior 3 years;

9. Proof and confirmation that the proposed qualified limited service affiliate is affiliated with the international trust entities provided in the notice; and

10. Proof that the jurisdictions where the international trust entity or its offices, subsidiaries, or any affiliates that are directly involved in or that facilitate the financial services functions, banking, or fiduciary activities of the international trust entity are not listed on the Financial Action Task Force's list of High-Risk Jurisdictions subject to a Call for Action or list of Jurisdictions under Increased Monitoring ~~Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism~~.

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

The proposed qualified limited service affiliate may provide additional information in the form of exhibits when attempting to satisfy any of the qualification requirements. All information that the proposed qualified limited service affiliate desires to present to support the written notice must be submitted with the notice.

(4) The qualified limited service affiliate shall suspend the permissible activities provided in s. 663.531 relating to a specific jurisdiction if the qualified limited service affiliate becomes aware that the jurisdiction of an international trust entity served by the qualified limited service affiliate is included on the Financial Action Task Force's list of High-Risk Jurisdictions subject to a Call for Action or list of Jurisdictions under Increased Monitoring. Suspensions under this subsection must remain in effect until the jurisdiction is removed from the Financial Action Task Force's list of High-Risk Jurisdictions subject to a Call for Action or list of Jurisdictions under Increased Monitoring.

Section 18. Paragraph (a) of subsection (5) of section 736.0802, Florida Statutes, is amended to read:

736.0802 Duty of loyalty.—

(5)(a) An investment by a trustee authorized by lawful authority to engage in trust business, as defined in s. 658.12 ~~s. 658.12(20)~~, in investment instruments, as defined in s.

660.25(6), that are owned or controlled by the trustee or its affiliate, or from which the trustee or its affiliate receives compensation for providing services in a capacity other than as trustee, is not presumed to be affected by a conflict between personal and fiduciary interests provided the investment otherwise complies with chapters 518 and 660 and the trustee complies with the requirements of this subsection.

Section 19. For the purpose of incorporating the amendment made by this act to section 658.20, Florida Statutes, in references thereto, subsection (1) of section 658.165, Florida Statutes, is reenacted to read:

658.165 Banker's banks; formation; applicability of financial institutions codes; exceptions.—

(1) If authorized by the office, a corporation may be formed under the laws of this state for the purpose of becoming a banker's bank. An application for authority to organize a banker's bank is subject to ss. 658.19, 658.20, and 658.21, except that s. 658.20(1)(b) and (c) and the minimum stock ownership requirements for the organizing directors provided in s. 658.21(2) do not apply.

Section 20. This act shall take effect July 1, 2022.

COMMERCE COMMITTEE

CS/HB 431 by Rep. Barnaby
Financial Institutions

AMENDMENT SUMMARY
February 17, 2022

Amendment 1 by Rep. Barnaby (line 465): The amendment expands the banking options for a foreign licensed family trust company in the same manner that the bill does for a registered family trust company and a licensed family trust company.

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: Commerce Committee
Representative Barnaby offered the following:

Amendment (with directory amendment)

Between lines 465 and 466, insert:

(2) In order to operate in this state, a foreign licensed family trust company must be in good standing in its principal jurisdiction, must be in compliance with the family trust company laws and regulations of its principal jurisdiction, and must maintain:

(d) A deposit account with:

1. A bank located in the United States and insured by the Federal Deposit Insurance Corporation; or

2. A credit union located in the United States and insured by the National Credit Union Administration ~~a state-chartered or~~

~~national financial institution that has a principal or branch office in this state~~.

D I R E C T O R Y A M E N D M E N T

Remove lines 453-454 and insert:

Section 14. Paragraph (d) of subsection (1) and paragraph (d) of subsection (2) of section 662.1225, Florida Statutes, are amended to read:

CS/HB 453

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 453 Records of Physical Examinations of Officers
SPONSOR(S): Criminal Justice & Public Safety Subcommittee, Duggan and Byrd
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1736

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	16 Y, 0 N	Herendeen	Luczynski
2) Criminal Justice & Public Safety Subcommittee	17 Y, 0 N, As CS	Frost	Hall
3) Appropriations Committee	25 Y, 0 N	Lee	Pridgeon
4) Commerce Committee		Herendeen	Hamon

SUMMARY ANALYSIS

In Florida, a law enforcement officer, correctional officer, correctional probation officer, or firefighter who becomes disabled by tuberculosis, heart disease, or hypertension, is entitled to a presumption that the disease was contracted in the line of duty, and is therefore compensable under workers' compensation law. The legal presumption shifts the burden of proof to the employer, who must prove that the disabling disease is not related to the officer or firefighter's job duties or workplace exposures.

To be eligible for the presumption, the officer or firefighter must have taken a pre-employment physical exam that failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

Law enforcement, correctional, and correctional probation officers must pass a pre-employment physical examination to be hired by the employing agency, and they are entitled to the benefit of the presumption if the pre-employment physical examination fails to reveal any evidence of tuberculosis, heart disease, or hypertension. Such officers may not use a pre-employment physical conducted by a previous employer to claim the benefit of the presumption when a workers' compensation claim is disputed by a current employer.

The law does not require a pre-employment physical for firefighters. However, persons who wish to become firefighters must demonstrate that they are in good physical condition, by passing a medical exam, to enroll in firefighting training courses and receive a firefighter certification. This medical assessment does not mention specific screening for tuberculosis, heart disease, or hypertension.

The bill requires the employing agency of a law enforcement, correctional, or correctional probation officer to maintain records of an employee's pre-employment physical examination for at least 5 years after the officer separates from the employing agency. The 5-year records retention requirement also applies to firefighters who took a pre-employment physical upon employment with the employing fire service provider. If the employing agency fails to maintain a record of the pre-employment physical, the officer or firefighter is entitled to the presumption that his or her disability due to tuberculosis, heart disease, or hypertension is compensable as an occupational disease under workers' compensation law.

For firefighters who did not undergo a pre-employment physical for the current employer, the firefighter may support a claim for benefits by using the medical exam required to enroll in training and become certified as a firefighter, and may be eligible for the presumption so long as the medical exam failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

The bill has an indeterminate fiscal impact on state and local governments. *See* Fiscal Comments.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Workers' Compensation Presumption

A legal presumption makes it easier for an employee to obtain workers' compensation benefits by shifting the burden of proof in a disability determination from the employee to the employer.[1]

In general, occupational diseases are compensable if:

- A condition peculiar to the occupation causes the disease;
- The employee contracts the disease on the job;
- The job is associated with a particular hazard of the disease;
- The incidence of the disease is substantially higher in the occupation than in the public;
- The nature of the employment was a major contributing cause of the disease; and
- Epidemiological studies show that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee.[2]

Florida law includes a presumption that treats tuberculosis, heart disease, and hypertension as occupational diseases associated with firefighters, law enforcement officers, correctional officers, and correctional probation officers. If these employees become temporarily or partially disabled by tuberculosis, heart disease, or hypertension, the law presumes that the employee contracted the disease in the line of duty unless the contrary can be shown by competent evidence.[3]

However, firefighters, law enforcement officers, correctional officers, and correctional probation officers are entitled to the presumption only if the officer or firefighter passed a pre-employment physical exam that failed to reveal any evidence of tuberculosis, heart disease, or hypertension.[4]

If the employee's pre-employment physical exam failed to reveal any evidence of disease, the employee must demonstrate the he or she suffers from tuberculosis, heart disease, or hypertension, but does not have to present evidence of causation that is typically required to demonstrate that an occupational disease is compensable.[5]

To overcome the statutory presumption, the employer must present clear and convincing evidence that the disease was caused by a non-work-related event or exposure.[6]

Qualifications for Employment as a Law Enforcement, Correctional, or Probation Officer

Florida law sets forth the minimum requirements for any person to be employed or appointed in a full- or part-time capacity, or in an auxiliary capacity, as a law enforcement officer, correctional officer, or correctional probation officer; or to be appointed as an auxiliary correctional officer by a private entity contracting with the Department of Corrections.

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[1] *Caldwell v. Division of Retirement, Florida Dept. of Administration*, 372 So. 2d 438 (Fla. 1979).
[2] S. 440.151(2), F.S.
[3] Ss. 112.18(1)(a) and 175.231, F.S.
[4] S. 112.18(1)(a), F.S.
[5] *McDonald v. City of Jacksonville*, 286 So. 3d 792 (Fla. 1st DCA 2019), citing *Walters v. State*, *DOC/Div. of Risk Management*, 100 So. 3d 1173 (Fla. 1st DCA 2019), rehearing denied, review denied 108 So. 3d 654 (The presumption is an adequate substitute for evidence of occupational causation, and compels the legal result that a claimant has proven occupational causation).
[6] *Butler v. City of Jacksonville*, 980 So. 2d 1250 (Fla. 1st DCA 2008).

The applicant must:

- Satisfy certain age, education, and citizenship requirements;
- Complete a training course;
- Pass a certification exam;
- Pass a criminal background check; and
- Pass a physical examination that includes screening for evidence of tuberculosis, heart disease, or hypertension.[7]

Officers are eligible for the presumption of s. 112.18, F.S., only if the physical exam fails to reveal any evidence of tuberculosis, heart disease, or hypertension.[8]

Qualifications for Certification as a Firefighter

To enroll in firefighting training courses and be certified as a firefighter, an applicant must:

- Be a high school graduate or the equivalent;
- Not have been convicted of specified crimes;
- Submit his or her fingerprints to be processed at the state and national level;
- Have a good moral character;
- Be a nonuser of tobacco or tobacco products for at least one year immediately prior to his or her application; and
- Be in good physical condition as determined by a medical examination given by a physician, surgeon, or physician assistant; an osteopathic physician, surgeon, or physician assistant; or an advanced practice registered nurse.[9]

The law does not mention specific screening for tuberculosis, heart disease, or hypertension. The medical professional must certify that the applicant is medically fit to engage in firefighting training and does not have any pre-existing or current condition, illness, injury, or deficiency.[10]

Records Retention

According to the records retention schedule for state and local government agencies published by the Florida Department of State, reports of job-related medical examinations must be retained by the Florida Retirement System (FRS) for 25 years after a participating employee separates from government employment.[11]

Local governments that do not participate in the FRS must maintain reports of job-related medical examinations for 50 years after a participating employee separates from government employment.[12]

State agencies that employ people through the Other Personnel Services system, as interns, or on a voluntary basis must maintain reports of job-related medical examinations for three years after the employee separates from government employment.[13]

The Florida State Fraternal Order of Police brought the issue of missing medical records forward because a vendor hired by the City of Orlando mistakenly destroyed pre-employment physicals for police officers taken prior to 1998, and the error complicated the city's ability to provide workers'

[7] S. 943.13(6), F.S.
[8] *Id.*
[9] Ss. 633.408(6)(a)3. and 633.412(5), F.S.
[10] Rule 69A-37.037 and Form DFS-K3-1022.
[11] Florida Department of State, Division of Library and Information Services, *General Records Schedule GS1-SL for State and Local Government Agencies*, p. 31, https://dos.myflorida.com/library-archives/records-management/general-records-schedules/ (last visited Feb. 14, 2022).
[12] *Id*. at 32.
[13] *Id*.

compensation benefits to an officer who suffered Post-Traumatic Stress Disorder after responding to the Pulse Nightclub shooting that left 50 people dead on June 12, 2016.[14]

Eligibility for the Workers' Compensation Presumption

In a disputed workers' compensation determination, the legal presumption does not apply if a law enforcement, correctional, or correctional probation officer:

- Departed from the course of treatment prescribed by his or her physician, resulting in a significant aggravation of the disease or disability or need for medical treatment.[15]
- Was previously compensated for the disabling disease and departed from the treatment prescribed by his or her physician, resulting in disability or increasing the disability or need for medical treatment.[16]
- Fails to make a claim for benefits prior to or within 180 days after leaving the employment of the employing agency.[17]

Firefighters are not subject to the exclusion for prior treatment or compensation and they are not covered by the claim-filing deadline that lets a law enforcement officer, correctional officer or correctional probation officer file a claim up to 180 days after leaving the employment.

Instead, a firefighter suffering from tuberculosis, heart disease, or hypertension must advise his or her employer of the injury within 90 days of the initial manifestation of the disease or 90 days after the firefighter obtains a medical opinion that the injury (occupational disease) is due to the nature of the firefighter's employment.[18]

The Pre-Employment Physical Is Crucial Evidence

To use the presumption, a "firefighter or law enforcement officer must have successfully passed a physical examination upon entering into any such service as a firefighter or law enforcement officer, which examination failed to reveal any evidence of any such condition."[19]

The pre-employment physical examination is required each time the officer or firefighter is employed or appointed at a new employing agency.[20] Firefighters who have attempted to rely on a pre-employment physical conducted for a prior employer or for certification as a firefighter have been denied benefits.[21]

The record of such physical is crucial evidence in a dispute over workers' compensation benefits.

For example, a single reported elevated blood pressure reading at a law enforcement officer's pre-employment physical examination did not constitute evidence of hypertension; thus, the officer was

[14] Public testimony of Lisa Henning, representing the Florida State Fraternal Order of Police, Insurance & Banking Subcommittee hearing on 2022 House Bill 453, Jan. 19, 2022.
[15] S. 112.18(1)(b)(1)a., F.S.
[16] S. 112.18(1)(b)(1)b., F.S.
[17] S. 112.18(1)(b)(4), F.S.
[18] Ss. 440.151(6) and 440.185(1), F.S.
[19] S. 112.18(1)(a), F.S.
[20] "Employing agency" means any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility. S. 943.10(4), F.S.
[21] *See, e.g.*, *Miami-Dade County v. Davis*, 26 So. 3d 13, at 17 (Fla. 1st DCA 2009) (A firefighter who passed a certification examination before he went to work for the City of Gainesville could not rely on benefit of the presumption when he suffered a heart attack, 30 years later, while working for Miami-Dade County); and *Volusia County Fire Services v. Taafe*, 27 So. 3d 81, at (Fla. 1st DCA 2009) (Fire captain who was diagnosed with hypertension during a pre-employment physical, but was otherwise found fit for duty, could not rely on a pre-employment physical conducted 13 years earlier to demonstrate entitlement to the presumption of s. 112.18, F.S.).

able to establish the presumption that his hypertension was a result of his job duties and was therefore compensable under workers' compensation.[22]

In the alternative, a law enforcement officer who suffered a heart attack was not eligible for workers' compensation benefits, even though his pre-employment physical did not reveal evidence of hypertension or heart disease, because the employer demonstrated that the officer's heart attack was caused by a genetic condition that had not been detected in the officer's pre-employment physical.[23]

When the parties cannot produce a record of a pre-employment physical, a firefighter or law enforcement officer cannot use the presumption to establish a compensable occupational disease. This was the case for a firefighter who did not undergo a physical examination prior to employment, because the employer did not require a pre-employment physical. The First District Court of Appeal held: "The statute creating the presumption is very clear and unambiguous and requires a physical examination upon entering into any service as a fireman as a prerequisite to entitlement to the presumption."[24]

Effect of Proposed Changes

The bill amends ss. 112.18 and 943.13, F.S., to require the employing agency of a law enforcement officer, correctional officer, or correctional probation officer and the employing fire service provider of a firefighter to maintain records of an employee's pre-employment physical examination for at least 5 years after he or she separates from the employing agency or fire service provider.

If the employing agency or fire service provider fails to maintain records of an officer's or firefighter's pre-employment physical examination, the officer or firefighter is entitled to the presumption that his or her disability due to tuberculosis, heart disease, or hypertension is compensable as an occupational disease under workers' compensation law.

Because state and local government agencies are already required to retain such records longer than 5 years under Department of State requirements, the records retention requirement under the bill does not impose any new duties on government employers. However, the bill may encourage such employers to specifically maintain pre-employment physical examinations more diligently, as failing to maintain the records will result in an employee receiving the presumption for workers' compensation benefits, when his or her physical examination may have proven otherwise.

The bill also authorizes the medical examination required for firefighter certification to satisfy the pre-employment physical examination required under s. 112.18, F.S., if:

- A firefighter's employer did not require a pre-employment physical examination; and
- The certification medical examination did not reveal any evidence of tuberculosis, heart disease, or hypertension.

A firefighter may only undergo a certification medical examination once in his or her career, as such examination is only required to begin training and receive certification as a firefighter, and is not required to take place with each new employer. As such, the bill may encourage fire service providers to require pre-employment physical examinations of all new employees.

The bill has an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1. Amends s. 112.18, F.S., relating to firefighters and law enforcement or correctional officers; special provisions relative to disability.

Section 2. Amends s. 943.13, F.S., relating to officers' minimum qualifications for employment or

[22] *City of Tavares v. Harper*, 230 So. 3d 918 (Fla 1st DCA 2017).
[23] *Punsky v. Clay County Sheriff's Office*, 18 So. 3d 577 (Fla. 1st DCA 2009).
[24] *Cumbie v. City of Milton*, 496 So 2d 923 (Fla. 1st DCA, 1986).

appointment.

Section 3. Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill has an indeterminate fiscal impact on state and local governments. If employing agencies or fire service providers fail to maintain records of the pre-employment physical examination for 5 years after the employee's separation, it is presumed that the employee has met the requirements of s. 112.18(1)(a), F.S. Additionally, firefighters who were not required to undergo pre-employment physical examinations may use the medical examination required for firefighter certification to satisfy the presumption requirement, if the medical examination failed to reveal evidence of tuberculosis, heart disease, or hypertension. This could result in more firefighters and officers qualifying for workers' compensation benefits under s. 112.18, F.S.

There is likely no fiscal impact on employing state agencies to implement the personnel records retention requirements of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not require rule-making authority and does not affect existing rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2022, the Criminal Justice & Public Safety Subcommittee adopted a proposed committee substitute (PCS) and one amendment to the PCS and reported the bill favorably as a committee substitute.

The PCS differed from the original bill as it authorized the medical examination required for firefighter certification to serve as the pre-employment physical examination required under s. 112.18, F.S., if such medical examination did not reveal any evidence of tuberculosis, heart disease, or hypertension.

The amendment to the PCS:

- Authorized a firefighter's certification medical examination to satisfy the physical examination required for the worker's compensation presumption only if the firefighter did not undergo a pre-employment physical examination and the certification medical examination did not reveal any evidence of tuberculosis, heart disease, or hypertension.
- Required that if a firefighter underwent a pre-employment physical examination the firefighter's employing fire service provider must retain records of the examination for 5 years after the firefighter's separation from employment with the fire service provider.
- Provided that if the fire service provider fails to retain the records of an employee's pre-employment physical examination for the 5-year period, and the firefighter files a claim for worker's compensation benefits, the firefighter is entitled to the presumption that his or her disability was caused by contracting tuberculosis, heart disease, or hypertension in the line of duty.

This analysis is drafted to the committee substitute as passed by the Criminal Justice & Public Safety Subcommittee.

A bill to be entitled

An act relating to officer and firefighter physical examination requirements and records; amending s. 112.18, F.S.; authorizing the use of a specified physical examination for a presumption; requiring a fire service provider to maintain records of employee physical examinations for a specified period; creating a presumption if records are destroyed before such period has elapsed; amending s. 943.13, F.S.; requiring an employing agency to maintain records of employee physical examinations for a specified period; creating a presumption if records are destroyed before such period has elapsed; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 112.18, Florida Statutes, is redesignated as paragraph (c), paragraph (a) of that subsection is amended, and a new paragraph (b) is added to that subsection to read:

112.18 Firefighters and law enforcement or correctional officers; special provisions relative to disability.—

(1)(a) Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter or any law

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

enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), or (3) caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter, ~~or~~ law enforcement officer, correctional officer, or correctional probation officer must have successfully passed a physical examination upon entering into any such service as a firefighter, ~~or~~ law enforcement officer, correctional officer, or correctional probation officer, which examination failed to reveal any evidence of any such condition. Such presumption does not apply to benefits payable under or granted in a policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract.

(b)1. If a firefighter did not undergo a pre-employment physical examination, the medical examination required by s. 633.412(5) shall be deemed to satisfy the physical examination requirement under paragraph (a), if the medical examination completed pursuant to s. 633.412(5) failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

2. If a firefighter underwent a pre-employment physical examination, the employing fire service provider, as defined in s. 633.102, must maintain records of the physical examination

for at least 5 years after the employee's separation from the employing fire service provider. If the employing fire service provider fails to maintain the records of the physical examination for the 5-year period after the employee's separation, it is presumed that the employee has met the requirements of paragraph (a).

Section 2. Subsection (6) of section 943.13, Florida Statutes, is amended to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections, to a county commission, or to the Department of Management Services shall:

(6)(a) Have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse, based on specifications established by the commission. In order to be eligible for the presumption set forth in s. 112.18 while employed with an employing agency, a law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical

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

examination required by this subsection upon entering into service as a law enforcement officer, correctional officer, or correctional probation officer with the employing agency, which examination must have failed to reveal any evidence of tuberculosis, heart disease, or hypertension. A law enforcement officer, correctional officer, or correctional probation officer may not use a physical examination from a former employing agency for purposes of claiming the presumption set forth in s. 112.18 against the current employing agency.

(b) The employing agency must maintain records of the physical examination for at least 5 years after the employee's separation from the employing agency. If the employing agency fails to maintain the records of the physical examination for the 5-year period after the employee's separation, it is presumed that the employee has met the requirements of paragraph (a).

Section 3. This act shall take effect July 1, 2022.

HB 667

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 667 Department of Business and Professional Regulation
SPONSOR(S): McClain
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 714

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	17 Y, 0 N	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee	14 Y, 0 N	Lee	Topp
3) Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating various businesses and professions throughout the state, including asbestos professionals, mold-related professionals, electrical contractors, public lodging establishments, and public food service establishments.

Related to mold-related professional licensing regulations, the bill provides a pathway for a person who holds a license in another state to obtain a Florida license.

Related to asbestos professional licensing regulations, the bill:

- provides a limited pathway for a person who holds a license in another state to obtain a Florida license, and
- removes the requirement to show limits of bondability and credit to demonstrate financial stability as required for initial licensure.

Related to electrical contractors licensing regulations, the bill allows certain local electrical and alarm contractors to be licensed statewide.

Related to pugilistic exhibitions, the bill removes the maximum participant weight differential requirement for all exhibition matches. This will allow any exhibition to include participants who are not in the same weight category.

Related to public lodging establishments and public food service establishments, the bill:

- requires licensees to submit certain documents, fees, and communications online;
- requires licensees to provide an email address for primary communication with DBPR;
- allows notices to be served to the operator of a licensed establishment via email, in addition to in-person service and by mail;
- allows the guest registry at a transient public lodging establishment to be kept online, and guests are no longer required to sign the registry;
- allows 2-year renewals on licenses, instead of only 1-year renewals; and
- removes the requirement for a staggered initial license fee schedule.

The bill has a significant negative fiscal impact on state government revenues in the Hotel and Restaurant Trust Fund. The estimated loss of licensing revenue for the Division of Hotels and Restaurants over three fiscal years is $5.1 million (6% annually). There is a minimal positive impact on state expenditures. There is no fiscal impact on local governments and a significant positive fiscal impact on the private sector. *See* Fiscal Analysis & Economic Impact Statement.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through the following divisions:

- The Division of Administration,
- The Division of Alcoholic Beverages and Tobacco,
- The Division of Certified Public Accounting,
- The Division of Drugs, Devices, and Cosmetics,
- The Division of Florida Condominiums, Timeshares, and Mobile Homes,
- The Division of Hotels and Restaurants,
- The Division of Pari-mutuel Wagering,
- The Division of Professions,
- The Division of Real Estate,
- The Division of Regulation,
- The Division of Technology, and
- The Division of Service Operations.[1]

The Division of Professions licenses and regulates various professions through 12 professional boards, five programs, and one council, including the: [2]

- Asbestos Licensing Unit,
- Electrical Contractors' Licensing Board (ECLB), and
- Mold-Related Services Program.

The Division of Regulation is the enforcement authority for Labor Organizations and Business Agents, the Florida Athletic Commission (FAC), Farm Labor Program, Child Labor Program, and any professional boards and programs housed within the Division of Professions.[3]

The Division of Hotels and Restaurants (H&R) licenses, inspects, and regulates public lodging and food service establishments in Florida..[4]

Mold-Related Services

Background

Mold assessors and mold remediators are regulated by ch. 468, part XVI, F.S., and licensed by the Mold-Related Services Licensing Program[5] in DBPR.

"Mold assessment" means a process performed by a mold assessor that includes the physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate an initial hypothesis about the origin, identity, location, and extent of amplification of mold growth of greater than ten square feet.[6]

[1] S. 20.165, F.S.
[2] Florida Department of Business and Professional Regulation, *Division of Professions*, http://www.myfloridalicense.com/DBPR/division-of-professions/ (last visited Jan. 14, 2022).
[3] Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers. Florida Department of Business and Professional Regulation, *Division of Regulation*, http://www.myfloridalicense.com/DBPR/division-of-regulation/ (last visited Jan. 14, 2022).
[4] Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, http://www.myfloridalicense.com/DBPR/hotels-restaurants/ (last visited Jan. 14, 2022).
[5] S. 468.84, F.S.
[6] S. 468.8411(3), F.S.

"Mold remediation" means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter of greater than ten square feet that was not purposely grown at that location; however, it may not include work that requires a contractor license under ch. 489, F.S.[7]

In order to be licensed as a mold assessor or mold remediator, an applicant must:

- be of good moral character,
- pass the required DBPR-approved examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation,
- have required liability insurance, and
- complete either:
  - at least a two-year associate of arts degree with certain course requirements and a minimum of one year of experience; or
  - a high school diploma or the equivalent with a minimum of four years of experience.[8]

A person who is licensed in another state is eligible for a license by endorsement in Florida if they:[9]

- are of good moral character;
- hold required general liability insurance;
- hold a valid license to practice as a mold assessor or mold remediator in another state or territory of the United States whose educational requirements are substantially equivalent to Florida; and
- have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the required Florida examination.

Applicants for a mold-related license pay an initial licensure fee of $230. There are currently 2,700 licensed mold assessors and 2,727 licensed mold remediators in the state.[10]

Effect of the Bill

The bill allows applicants who hold a mold-related license in another state to obtain a license by endorsement in Florida, if they have held a valid license to practice in another state or territory of the United States for at least ten years before the date of application, without needing to take a Florida-specific examination or training.

Such applications for a Florida license by endorsement must be made either when the applicant's license in another state or territory is active or within two years of when such license was last active.

The bill clarifies the provision relating to licensure examination requirements.

Asbestos Consultants and Contractors

Background

Asbestos consultants and contractors are regulated by ch. 469, F.S., and licensed by the Asbestos Licensing Unit in DBPR. Florida licensing standards must also comply with the U.S. Environmental Protection Agency's Asbestos Model Accreditation Plan for States(MAP), which includes mandatory nationwide standards for testing and education.[11]

"Asbestos abatement" means the removal, encapsulation, enclosure, or disposal of asbestos.[12]

[7] S. 468.8411(5), F.S.
[8] S. 468.8413(2), F.S.
[9] S. 468.8414(3), (4), F.S.
[10] Email from Cody McCloud, Legislative Affairs Director, Department of Business and Professional Regulation, RE: HB 667 (Jan. 6, 2022).
[11] 40 C.F.R. § 763 Appendix C to Subpart E.
[12] S. 469.001(1), F.S.

An asbestos consultant may:

- conduct an asbestos survey,
- develop an operation and maintenance plan,
- monitor and evaluate asbestos abatement, and
- prepare asbestos abatement specifications.[13]

An asbestos contractor may perform the work of an asbestos consultant and conduct asbestos abatement work.[14]

In order to be eligible to be licensed as an asbestos consultant or contractor, an applicant must meet one of the following criteria:[15]

- hold a current, valid, active license as an architect issued under ch. 481, F.S.;
- hold a current, valid, active license as a professional engineer issued under ch. 471, F.S.,
- hold a current, valid, active license as a professional geologist under ch. 492, F.S.;
- be a diplomat of the American Board of Industrial Hygiene; or
- have been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

An applicant for licensure as either an asbestos consultant or contractor must also:[16]

- if applying for an asbestos consultant license, complete DBPR-approved courses in the following topics:
  - building asbestos surveys and mechanical systems,
  - asbestos management planning,
  - respiratory protection, and
  - project designer.
- if applying for an asbestos contractor license, complete courses in the following topics:
  - asbestos contractor/supervisor, and
  - respiratory protection.
- provide evidence of satisfactory work on ten asbestos projects within the last five years,
- provide evidence of financial stability, and
- pass the DBPR-approved examination.

In order to determine financial stability and adopt standards in related rules,[17] DBPR must use both the applicant's credit history and **limits of bondability and credit**.[18]

There is no provision which specifically allows or addresses licenses by endorsement for asbestos licensees of other states.

Applicants for an asbestos license pay a business license fee of $555, an initial licensure fee of $555, and an examination fee of $340.[19] There are currently 119 licensed asbestos contractors and 106 licensed asbestos consultants in the state.[20] DBPR has received an average of 33 asbestos applications per year over the last three fiscal years.[21]

Effect of the Bill

The bill allows applicants who hold an asbestos license in another state license to obtain a license by endorsement in Florida if they have:

- passed a written examination in any state that meets the requirements of MAP,

[13] S. 469.003, F.S.
[14] S. 469.003(3), F.S.
[15] S. 469.004(1), F.S.
[16] S. 469.005, F.S.
[17] The standards for determining an applicant's financial stability can be found in r. 61E1-4.002, F.A.C.
[18] S. 469.006(2)(c)2., F.S.
[19] R. 61E1-3.001, F.A.C.
[20] DBPR, *supra* note 10.
[21] Department of Business and Professional Regulation (DBPR), Agency Analysis of 2022 Senate Bill 714, p. 9 (Jan. 14, 2022).

- held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least ten years,
- demonstrated financial stability, and
- completed the required DBPR-approved courses.

Such applicants must apply while they hold an active license in another state or territory or within 2 years after such license was last active.

The bill removes the requirement that applicants show **limits of bondability and credit** in order to prove financial stability. Applicants will still need to provide their credit history to meet financial stability standards.

Electrical Contractors

Background

Statewide electrical, alarm system, and specialty contractors are regulated by of ch. 489, part II, F.S., and licensed and regulated by the ECLB within DBPR.[22] An electrical contractor engages in business as a contractor or performs electrical or alarm work for compensation.[23]

Electrical contractors may work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form. The scope of an electrical contractor's license includes alarm system work.[24]

Alarm system contractors may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service burglary, fire, robbery, or medical emergency alarm systems.[25]

In order to become a certified electrical, alarm system, or specialty contractor, an applicant must:[26]

- be at least 18 years of age;
- be of good moral character;
- pass the certification examination;
- have workers' compensation insurance or an exemption, and public liability and property damage insurance; and
- meet certain training and education criteria.

A registered contractor is an individual that have taken and passed a local competency examination and can practice the specific category of contracting for which they are approved, only in the local jurisdiction for which the license is issued.[27] Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license.[28]

Section 489.514, F.S., created a pathway that allowed registered local electrical and alarm contractors who met certain criteria to have their local registration converted into a certified statewide license by the ECLB. The provision required applicants to apply by November 1, 2021, and is thus is no longer available for use by local registered contractors. This provision is commonly referred to as the "grandfathering provision."

Any registered contractor wishing to have their license "grandfathered" into a certified license had to submit a completed application to the ECLB, pay an appropriate fee, and show evidence of the following criteria:

[22] S. 489.507, F.S.
[23] S. 489.505(9), F.S.
[24] Ss. 489.505(12) & 489.537(7), F.S.
[25] S. 489.505(1)-(2), F.S.
[26] S. 489.511(1) & (4), F.S.
[27] S. 489.505(21)-(23), F.S.
[28] S. 489.513, F.S.

- currently holds a valid registered local license in the certification of electrical contractor, alarm system contractor, or electrical specialty contractor sought;
- has, for the certification category sought, passed a written, proctored examination that the ECLB finds to be substantially similar to the examination required to be licensed as a certified contractor;
- has at least five years of experience as a contractor in the certification category sought, or as an inspector or building administrator with oversight over that category. For contractors, only time periods in which the contractor license is active and the contractor is not on probation shall count toward the required five years;
- has not had the contractor's license revoked at any time, suspended in the last five years, or assessed a fine in excess of $500 in the last five years; and
- has the required workers' compensation insurance or an exemption, and public liability and property damage insurance.[29]

DBPR received 766 applications from local electrical and alarm contractors for a statewide license during the last period of grandfathering, from July 1, 2019, through November 1, 2021.[30]

Effect of the Bill

The bill reopens the grandfathering provision for locally registered electrical, alarm system, and specialty contractors to obtain licensure as statewide certified contractors without an expiration date.

Pugilistic Exhibitions

Background

Chapter 548, F.S., governs the FAC under DBPR. The function of the FAC is to license and regulate pugilistic events and matches, including professional boxing, kickboxing, and mixed martial arts. The FAC ensures that all matches are conducted in accordance with provisions of state laws and rules.

A match participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician,[31] matchmaker, or promoter must be licensed by FAC before directly or indirectly acting in such capacity in connection with any match. In order to obtain a license, an applicant must:[32]

- complete an application in a form prescribed by the FAC;
- be at least 18 years of age; and
- pay an application fee.

An "exhibition" is a boxing, kickboxing, or mixed martial arts engagement in which persons participating show or display their skill without necessarily striving to win using strikes and blows to the head or other full-contact maneuvers.[33] Participants in an exhibition, except one held solely for training purposes, must weigh within 12 pounds of each other.[34]

Effect of the Bill

The bill removes the maximum participant weight differential requirement for all exhibition matches. This will allow any exhibition to include participants that are more than 12 pounds from each other.

Hotels and Restaurants

[29] S. 489.514, F.S.
[30] DBPR, *supra* note 21, at 9.
[31] A physician must be licensed pursuant to chapter 458 or chapter 459, must maintain a license in good standing, and must demonstrate satisfactory medical training or experience in boxing. S. 548.017, F.S.
[32] S. 548.021, F.S.
[33] S. 548.002(8), F.S.
[34] S. 548.043(2), F.S.

"Public lodging establishment" includes:[35]

- "Transient public lodging establishments," which means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days, or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests; and
- "Nontransient public lodging establishments," which means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

Classifications of public lodging establishments include hotels, motels, vacation rentals, apartments, bed and breakfast inns, and timeshare projects.[36]

"Public food service establishments" means any building, vehicle, place, or structure, or any room or division thereof, where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption, with certain exceptions.[37]

Classifications of public food service establishments include permanent food service restaurants, catering services, mobile food dispensing vehicles, vending machines, theme park carts, culinary education programs, and temporary food service events.[38]

Electronic Communications - Background

While H&R has rulemaking authority to adopt rules to implement ch. 509, F.S., H&R does not have authority to adopt rules to require electronic submissions for any required document or fee from a licensee or for H&R to require online communications with a licensee.[39] There is also no statutory requirement that such documents, fees, or communications be transmitted online or for licensees to provide an email address to H&R.[40]

Notices that are served by H&R must be delivered to the operator of a licensed establishment by an H&R agent or by registered mail. If H&R is unable to effect service, the notice may be conspicuously posted at the licensee's establishment.[41] Inspection reports may be served via electronic means.

Each transient public lodging establishment is required to maintain a register of guests who occupy rental units in the establishment. The guests must also sign the registry. There is not a specific allowance that the registry may be kept in an electronic format.

Electronic Communications – Effect of the Bill

The bill gives rulemaking authority to H&R to adopt rules to mandate that certain documents, fees, and communications must be made online. The bill allows H&R to prescribe requirements and procedures for exemptions due to a technological or financial hardship.

The bill requires all H&R licensees to provide an email address to function as the primary method of communication with H&R.

[35] S. 509.013(4), F.S.
[36] S. 509.242, F.S.
[37] S. 509.013(5), F.S.
[38] R. 61C-1.002, F.A.C.; Florida Department of Business and Professional Regulation, *Hotels and Restaurants – Licensing Guides*, http://www.myfloridalicense.com/DBPR/hotels-restaurants/licensing/licensing-guides/ (last visited Jan. 14, 2022).
[39] S. 509.032, F.S.
[40] S. 509.091, F.S.
[41] S. 509.091(1), F.S.

The bill allows H&R to serve notices or inspection reports to the operator of licensed establishments via email, in addition to in-person service and mail.

The bill allows the guest registry at a transient public lodging establishment to be kept online, and will no longer require guests to sign the registry.

Licensure Fees – Background

Each public lodging establishment and public food service establishment must obtain a license from H&R. Licenses are renewed annually, and H&R must adopt a rule establishing a staggered schedule for license renewals.[42]

The staggered initial license fee schedules require such establishments applying for an initial license to pay the full license fee if the application is made during the annual renewal period or more than six months before the next such renewal period, and one-half of the fee if the application is made six months or less before the next renewal period.[43] For example: if an applicant is applying for a hotel license with between 26 and 50 rental units, the initial license fee is $215, but if such applicant is applying for the license less than six months before the beginning of the next renewal period, the initial license fee is $112.50. Such applicant will need to pay the full annual fee when the next renewal period begins.[44]

H&R adopts, by rule, a schedule of fees to be paid by each public lodging establishment and public food service establishment for the issuance or renewal of a license. Such fees are based on the number of rental units in the public lodging establishment and based on seating capacity and services offered for public food service establishments. Licenses must be renewed annually.[45] License fees generally range from $91 for a temporary food vendor to $357 for a hotel with 501 or more rental units.[46]

Licensure Fees – Effect of the Bill

The bill removes the requirement for a staggered initial license fee schedule for public lodging establishments and public food service establishments, and instead provides for an initial license that may be renewed for one or two years. Applications for licensure must be made on forms provided by H&R, and H&R must adopt a rule for license issuance and renewal procedures.

The bill provides that license renewal fees for public lodging establishments must be based on the number of rental units in the establishment and whether the renewal is for one or two years. License renewal fees for public food service establishments must be based on the classification of the license and whether the renewal is for one or two years.

The bill provides that the statutory maximum fee for a public lodging establishment for a two-year renewal is set at $2,000, which is double the currently allowed maximum for annual renewals. The statutory maximum fee for a public food service establishment for a two-year renewal is set at $800, which is double the currently allowed maximum for annual renewals.

The bill clarifies that all fees be must be paid by the applicant when the license application is submitted to H&R.

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[42] S. 509.241(1), F.S.
[43] S. 509.251(1), (2), F.S.
[44] S. 509.251(1), (2), F.S.; Department of Business and Professional Regulation, *Hotel and Restaurants – Hotel-Motel Guide*, http://www.myfloridalicense.com/DBPR/hotels-restaurants/licensing/hotels-and-restaurants-hotel-motel-guide/ (last visited Jan. 14, 2022).
[45] S. 509.251(1), (2), F.S.
[46] R. 61C-1.008, F.A.C.

B. SECTION DIRECTORY:

Section 1: Amends s. 468.8414, F.S., revising licensure requirements for mold assessors and remediators.
Section 2: Amends s. 469.004, F.S., revising licensure requirements for asbestos consultants and contractors.
Section 3: Amends s. 469.006, F.S., revising licensure requirements for asbestos consultants and contractors.
Section 4: Amends s. 489.514, F.S., removing a deadline for an electrical contractor licensing provision.
Section 5: Amends s. 509.032, F.S., providing rulemaking authority for electronic form submissions for hotels and restaurants.
Section 6: Amends s. 509.091, F.S, revising requirements for hotel and restaurant inspection reports.
Section 7: Amends s. 509.101, F.S., revising requirements for hotel guest registries.
Section 8: Amends s. 509.241, F.S., revising license provisions for public lodging establishments and public food service establishments.
Section 9: Amends s. 509.251, F.S., revising fee schedules for public lodging establishments and public food service establishments.
Section 10: Amends s. 548.043, F.S., revising participant weight differentials for certain pugilistic exhibitions.
Section 11: Reenacts s. 509.102, F.S., relating to mobile food dispensing vehicles.
Section 12: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DBPR expects the following fiscal impacts on revenues:[47]

Division of Hotels and Restaurants
DBPR's internal projections for FY 2022-23 indicate the bill would reduce H&R's license revenues in the Hotel and Restaurant Trust Fund by approximately $1.7 million (6%) and a total of $5.1 million over the next three fiscal years. These figures assume a 2.81% annual growth rate in H&R license revenue.

	FY22-23	FY23-24	FY24-25
Impact of HB 667 on Licensing Revenue[48]	$(1,652,302)	$(1,698,775)	$(1,746,556)
Change as %	- 6%	- 6%	- 6%

Under the current license fee structure, about 58% of new applicants pay an initial license fee for some fraction of time and then pay H&R again to renew their license within the same fiscal year.

Under the bill, H&R will collect a slightly larger initial license fee and a lower amount of renewal fees during the first year of licensure for each new license. The bill would eliminate half year prorating of license fees, replacing it with a full year, which slightly increases revenue, but results in a true "annual license" from the start with no same fiscal year renewals.

H&R is unable to predict how many licensees will choose a 2-year license or renewal, so it is unknown how the 2-year option would affect revenue.

Division of Professions

[47] DBPR, *supra* note 21, at 6-7.
[48] DBPR, *supra* note 21, at 10.

Reopening the grandfathering provision for locally registered electrical, alarm system, and specialty contractors to obtain licensure as statewide certified contractors would increase revenues between $150,136 and $399,056 over the next three years based on the potential number of eligible applicants.

2. Expenditures:

Division of Hotels and Restaurants
The bill has a positive fiscal impact on state expenditures. Due to the reduction of licensing revenue, the amount transferred to the General Revenue Fund for the 8% service charge from the Hotel and Restaurant Trust Fund would be reduced by approximately $407,810 over three fiscal years.[49] The division also anticipates a reduction of expenditures for postage and bank fees due to the reduction in license renewals.[50]

HB 667 Impact	FY 2022-23	FY 2023-24	FY 2024-25
Reduction in 8% Service Charge to General Revenue	$132,184	$135,902	$139,724
Cost Savings on Postage and Bank Fees	$12,439	$12,789	$13,148

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments could see an insignificant decrease in revenues associated with renewal and reciprocity fees if eligible registered contractors choose to apply for the grandfathering provision created in the bill for ECLB licensees.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be a positive impact on the private sector by expanding the geographical scope of practice for those registered electrical contractors that choose to take advantage of the grandfathering provision. Thus, making more electrical contractors available to work across the state.

The removal of the bond and credit limitation proof requirement will likely reduce costs to asbestos applicants.

The bill will likely generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure. DBPR estimates licensees will save about $1.65 million in Fiscal Year 2022-23. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure. Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year.[51]

D. FISCAL COMMENTS:

The charts below shows the projected impact of the bill[52]. Despite the reduction of annual licensing revenues, the Hotel and Restaurant Trust Fund cash balance is sufficient to fund H&R staff and operations.

Hotel and Restaurant Trust Fund	FY 2022-23	FY 2023-24	FY 2024-25
Estimated Revenue - Current Licensing System	$27,287,063	$28,054,554	$28,843,632

[49] *Id.*
[50] *Id.*
[51] *Id*.
[52] DBPR, *supra* note 21, at 10.

Impact of HB 667 on Licensing Revenues	-$1,652,302	-$1,698,775	-$1,746,556
Estimated Revenue under Proposed Change	$25,634,761	$26,355,779	$27,097,076
Impact of HB 667 on Expenditures	$144,623	$148,691	$152,872
Net Impact of HB 667 (Line 2 + Line 4)	**-$1,507,679**	**-$1,550,084**	**-$1,593,684**

FY 2022-23 Projections[53]

Hotel and Restaurant Trust Fund	Current	HB 667
Carry Forward Cash Balance - June 30	$23,608,344	$23,608,344
Licensing Revenue	$27,287,063	$25,634,761
Other Revenues/Fees	$12,506,852	$12,506,852
Less Expenditures for Fiscal Year 2022-23	*($40,668,766)*	*($40,391,959)*
Fiscal Year Ending Balance	**$22,733,493**	**$21,357,998**

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The 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 bill will require DBPR to amend rules related to asbestos licensing standards and pugilistic exhibition requirements.

The bill gives rulemaking authority to H&R to adopt rules relating to electronic communications and license issuance and renewal.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[53] Figures for the Hotel and Restaurant Trust Fund are based on DBPR's Schedule I submitted on Sept. 15, 2021, on the Florida Fiscal Portal website available at http://floridafiscalportal.state.fl.us/Document.aspx?ID=23231&DocType=PDF.

A bill to be entitled

An act relating to the Department of Business and Professional Regulation; amending s. 468.8414, F.S.; requiring the department to certify for licensure qualified individuals who practice mold assessment or mold remediation and hold certain licenses issued by other states or territories; requiring applications to be filed within a specified timeframe after such licensure; amending s. 469.004, F.S.; providing an exception for the issuance of an asbestos consultant's license; requiring the department to certify asbestos consultants and asbestos contractors for licensure who meet certain exam and other state licensure requirements; requiring applications to be filed within a specified timeframe after such licensure; requiring asbestos consultants and asbestos contractors to complete certain courses; amending s. 469.006, F.S.; revising the financial responsibility criteria the department must use when issuing consulting or contracting licenses; amending s. 489.514, F.S.; removing a time limitation for applying for certain contracting licenses under certain provisions; amending s. 509.032, F.S.; authorizing the Division of Hotels and Restaurants of the department to adopt rules for certain electronic submissions and

exemptions; amending s. 509.091, F.S.; requiring licensees and licensed agents to provide the division with e-mail addresses for contact with the division; authorizing the division to deliver notices and inspection reports by e-mail; amending s. 509.101, F.S.; revising the maintenance requirements an operator must meet for a transient establishment's guest register; amending s. 509.241, F.S.; providing for the expiration of public lodging establishment and public food service establishment licenses; authorizing the licenses to be renewed for specified timeframes; requiring the division to provide forms for license renewals and license applications; amending s. 509.251, F.S.; revising the public lodging establishment and public food service establishment license fees to include an option for 2-year renewals; limiting the fees the division may charge for a 2-year license renewal; requiring license fees to be paid in full at the time of application; amending s. 548.043, F.S.; deleting a requirement limiting the types of boxing exhibitions which require a specified maximum difference in participant weights; reenacting s. 509.102(2), F.S., relating to mobile food dispensing vehicles, to incorporate the amendment made to s. 509.251, F.S., in a reference thereto; providing an

effective date.

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

Section 1. Subsection (3) of section 468.8414, Florida Statutes, is amended to read:

468.8414 Licensure.—

(3) The department shall certify as qualified for a license by endorsement an applicant who is of good moral character, who has the insurance coverage required under s. 468.8421, and who:

(a) Is qualified to take the examination as set forth in s. 468.8413 and has passed a certification examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation, and the department ~~that~~ has ~~been~~ approved the certification examination ~~by the department~~ as being substantially equivalent to the requirements of this part and s. 455.217; ~~or~~

(b) Holds a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States if the criteria for issuance of the license were substantially the same as the licensure criteria ~~that is~~ established by this part as determined by the department; or

(c) Has held a valid license to practice mold assessment or mold remediation issued by another state or territory of the

United States for at least 10 years before the date of application. The application for licensure must be made either when the license in the other state or territory is active or within 2 years after such license was last active.

Section 2. Subsection (3) of section 469.004, Florida Statutes, is renumbered as subsection (4), subsection (1) is amended, and a new subsection (3) is added to that section, to read:

469.004 License; asbestos consultant; asbestos contractor.—

(1) All asbestos consultants must be licensed by the department. Except for an asbestos consultant's license issued by endorsement as provided under subsection (3) or otherwise expressly provided by law, an asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect issued under chapter 481; holds a current, valid, active license as a professional engineer issued under chapter 471; holds a current, valid, active license as a professional geologist issued under chapter 492; is a diplomat of the American Board of Industrial Hygiene; or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

(3) The department shall certify as qualified for licensure by endorsement any individual applying for licensure who has passed a written examination that meets the requirements

of the United States Environmental Protection Agency Asbestos Model Accreditation Plan, has held a valid license to practice as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the date of application, and is applying for the same or similar license in the state, subject to ss. 469.005(5) and 469.006. The application for licensure must be made either when the license in the other state or territory is active or within 2 years after such license was last active. Asbestos consultants and asbestos contractors must complete courses as required by s. 469.005(2) or (3), respectively, to qualify for licensure by endorsement.

Section 3. Paragraph (c) of subsection (2) of section 469.006, Florida Statutes, is amended to read:

469.006 Licensure of business organizations; qualifying agents.—

(2)

(c) As a prerequisite to the issuance of a license under this section, the applicant shall submit the following:

1. An affidavit on a form provided by the department attesting that the applicant has obtained workers' compensation insurance as required by chapter 440, public liability insurance, and property damage insurance, in amounts determined by department rule. The department shall establish by rule a procedure to verify the accuracy of such affidavits based upon a

random sample method.

2. Evidence of financial responsibility. The department shall adopt rules to determine financial responsibility which ~~shall~~ specify grounds on which the department may deny licensure. Such criteria must ~~shall~~ include, but not be limited to, credit history ~~and limits of bondability and credit~~.

Section 4. Subsection (3) of section 489.514, Florida Statutes, is amended to read:

489.514 Certification for registered contractors; grandfathering provisions.—

~~(3) An applicant must make application by November 1, 2021, to be licensed pursuant to this section.~~

Section 5. Subsection (6) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(6) RULEMAKING AUTHORITY.—The division shall adopt such rules as are necessary to carry out ~~the provisions of~~ this chapter. The division may adopt rules requiring electronic submission of any form, document, or fee as required by this chapter. The division may prescribe by rule requirements and procedures for an individual to obtain an exemption due to a technological or financial hardship.

Section 6. Section 509.091, Florida Statutes, is amended to read:

509.091 Notices; form and service.—

(1) All licensees and licensed agents must provide an e-mail address to the division to function as the primary method of contact for all communication with the division.

(2) Each notice or inspection report served by the division pursuant to this chapter must be in writing and must be delivered personally by an agent of the division, be sent by e-mail, or mailed ~~by registered letter~~ to the operator of the public lodging establishment or public food service establishment. If the operator refuses to accept service or evades service or the agent is otherwise unable to effect service after due diligence, the division may post such notice or inspection report in a conspicuous place at the establishment.

~~(2) Notwithstanding subsection (1), the division may deliver lodging inspection reports and food service inspection reports to the operator of the public lodging establishment or public food service establishment by electronic means.~~

Section 7. Subsection (2) of section 509.101, Florida Statutes, is amended to read:

509.101 Establishment rules; posting of notice; food service inspection report; maintenance of guest register; mobile food dispensing vehicle registry.—

(2) It is the duty of each operator of a transient establishment to maintain at all times a register of~~, signed by or for~~ guests who occupy rental units within the establishment,

showing the dates upon which the rental units were occupied by such guests and the rates charged for their occupancy. Each operator shall maintain this register ~~shall be maintained~~ in chronological order, shall make the register ~~and~~ available for inspection by the division at any time, and may keep the register in an electronic format. Operators need not make available registers that ~~which~~ are more than 2 years old.

Section 8. Section 509.241, Florida Statutes, is amended to read:

509.241 Licenses required; exceptions.—

(1) LICENSES; ~~ANNUAL~~ RENEWALS.—Each public lodging establishment and public food service establishment shall obtain a license from the division. Such license may not be transferred from one place or individual to another. It is ~~shall be~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for such an establishment to operate without a license. Local law enforcement shall provide immediate assistance in pursuing an illegally operating establishment. The division may refuse a license, or a renewal thereof, to any establishment ~~that is~~ not constructed and maintained in accordance with law and with the rules of the division. The division may refuse to issue a license, or a renewal thereof, to any establishment an operator of which, within the preceding 5 years, has been adjudicated guilty of, or has forfeited a bond when charged with, any crime reflecting on professional

character, including soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in controlled substances as defined in chapter 893, whether in this state or in any other jurisdiction within the United States, or has had a license denied, revoked, or suspended pursuant to s. 429.14. Licenses expire if not renewed before the expiration date and may be renewed for 1 or 2 years. Licenses must ~~shall~~ be renewed using forms provided by ~~annually, and~~ the division. The division shall adopt a rule establishing procedures ~~a staggered schedule~~ for license issuance and renewals. If any license expires while administrative charges are pending against the license, the proceedings against the license must ~~shall~~ continue to conclusion as if the license were still in effect.

(2) APPLICATION FOR LICENSE.—Each person who plans to open a public lodging establishment or a public food service establishment must ~~shall~~ apply for and receive a license from the division using forms provided by the division before commencing ~~prior to the commencement of~~ operation. A condominium association, as defined in s. 718.103, which does not own any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or (g) is not required to apply for or receive a public lodging establishment license.

(3) DISPLAY OF LICENSE.—Any license issued by the division shall be conspicuously displayed in the office or lobby of the

licensed establishment. Public food service establishments that ~~which~~ offer catering services shall display their license number on all advertising for catering services.

Section 9. Subsections (1) and (2) of section 509.251, Florida Statutes, are amended to read:

509.251 License fees.—

(1) The division shall adopt~~,~~ by rule~~,~~ a schedule of fees to be paid by each public lodging establishment as a prerequisite to issuance or renewal of a license. Initial license ~~Such~~ fees must ~~shall~~ be based on the number of rental units in the establishment. License renewal fees must be based on the number of rental units in the establishment and whether the renewal is for 1 or 2 years. The aggregate fee per establishment charged any public lodging establishment may not exceed $1,000 for a 1-year license or $2,000 for a 2-year license; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. Vacation rental units or timeshare projects within separate buildings or at separate locations but managed by one licensed agent may be combined in a single license application, and the division must ~~shall~~ charge a license fee as if all units in the application are in a single licensed establishment. ~~The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months~~

~~before the next such renewal period and one-half of the fee if application is made 6 months or less before such period.~~ The fee schedule must ~~shall~~ include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302. All fees~~, which~~ are payable in full for each application at the time ~~regardless of when~~ the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed $50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed $50, in addition to the renewal fee and any other fees required by law.

(2) The division shall adopt~~,~~ by rule~~,~~ a schedule of fees to be paid by each public food service establishment as a prerequisite to issuance or renewal of a license. Initial license fees must be based on the classification of the license. License renewal fees must be based on the classification of the license and whether a renewal is for 1 or 2 years. The fee schedule must ~~shall~~ prescribe a base ~~basic~~ fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment charged any public food service

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

establishment may not exceed $400 for a 1-year license or $800 for a 2-year license; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. ~~The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months before the next such renewal period and one-half of the fee if application is made 6 months or less before such period.~~ The fee schedule must ~~shall~~ include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302. All fees~~,~~ ~~which~~ are payable in full for each application at the time ~~regardless of when~~ the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed $50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed $50, in addition to the renewal fee and any other fees required by law.

Section 10. Subsection (2) of section 548.043, Florida Statutes, is amended to read:

548.043 Weights and classes, limitations; gloves.—

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

(2) The commission shall establish by rule the acceptable difference in weight between participants; however, the maximum difference in weight in boxing matches may ~~shall~~ not exceed 12 pounds, except matches in the cruiserweight and heavyweight classes and exhibitions ~~held solely for training purposes~~.

Section 11. For the purpose of incorporating the amendment made by this act to section 509.251, Florida Statutes, in a reference thereto, subsection (2) of section 509.102, Florida Statutes, is reenacted to read:

509.102 Mobile food dispensing vehicles; preemption.—

(2) Regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees is preempted to the state. A municipality, county, or other local governmental entity may not require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle within the entity's jurisdiction. A municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's jurisdiction.

Section 12. This act shall take effect July 1, 2022.

COMMERCE COMMITTEE

HB 667 by Rep. McClain
Department of Business and Professional Regulation

AMENDMENT SUMMARY
February 17, 2022

Amendment 1 by Rep. Rommel (between lines 182-183):

The amendment allows outdoor ovens at licensed public food service establishments. It exempts outdoor ovens or outdoor kitchen equipment from certain requirements.

- Specifically:
  - "Outdoor kitchen equipment" is defined as equipment used to prepare food, including a cooking appliance, that is owned by, is adjacent to, and operates in conjunction with a licensed public food service establishment.
  - Such equipment is not required to be separately covered, have overhead protection or hoods, or to be enclosed.
  - Such equipment must meet all other fire safety and sanitation standards.
  - Food prepared on such equipment must be kept at required temperatures and prepared using required sanitation practices.
  - A local law, ordinance or regulation may not prohibit the use of outdoor kitchen equipment.
  - DBPR or a local health department may still enforce an order to cease and desist if the operation is the source of an adulterated food or outbreak of illness caused by contaminated food.

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: Commerce Committee

Representative Rommel offered the following:

Amendment (with title amendment)

Remove lines 182-183 and insert:

Section 7. Section 509.105, Florida Statutes, is created to read:

509.105 Outdoor kitchen equipment.—

(1) As used in this section, the term "outdoor kitchen equipment" means equipment used to prepare, serve, or sell food for immediate consumption, including a cooking appliance, that is owned by, is adjacent to, and operates in conjunction with a licensed public food service establishment.

(2) Notwithstanding any other provision of law, outdoor kitchen equipment:

(a) Is not required to be separately covered, have overhead protection or hoods, or be enclosed. However, outdoor kitchen equipment must meet all other applicable laws, codes, standards, and rules, including for fire safety and sanitation.

(b) May be used to prepare, serve, or sell food for immediate consumption as provided in this chapter. Any food that is prepared on outdoor kitchen equipment must be kept at appropriate temperatures and prepared using sanitation practices, as required by this chapter. Such food may not be permanently stored outdoors but is permitted to be temporarily stored outside the licensed food service establishments' enclosure while preparation is taking place on such kitchen equipment.

(c) Is subject to all other provisions of this chapter that apply to public food service establishments, including but not limited to, sanitation standards, food safety training, inspections, enforcement, and disciplinary action.

(3) A local law, ordinance, or regulation may not prohibit, or have the effect of prohibiting, the use of outdoor kitchen equipment.

(4) This section does not prevent the department or a local health department from issuing and enforcing an order to cease and desist use of outdoor kitchen equipment if the equipment is the source of an adulterated food or of an outbreak of illness caused by contaminated food.

41
42 ---
43 **T I T L E A M E N D M E N T**
44 Remove line 33 and insert:
45 guest register; creating s. 509.105, F.S.; defining
46 "outdoor kitchen equipment"; authorizing certain uses
47 of outdoor kitchen equipment; providing applicability;
48 providing prohibitions; providing enforcement;
49 amending s. 509.241, F.S.; providing

COMMERCE COMMITTEE

HB 667 by Rep. McClain
Department of Business and Professional Regulation

AMENDMENT SUMMARY
February 17, 2022

Amendment 2 by Rep. Rommel (line 131):

- Allows an employee, agent, or contractor of an animal control authority acting under the indirect supervision of a veterinarian to administer rabies vaccinations to impounded animals.
- Defines "indirect supervision," to mean the supervising veterinarian must be available for consultation through telecommunications but is not required to be on the premises during such consultation.
    - The supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under or at his or her direction and supervision.
- Authorizes veterinarians who supervise an employee of an animal control authority to affix his or her signature stamp in lieu of an actual signature on the rabies vaccination certificate.
- Makes a conforming cross reference.

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: Commerce Committee

Representative Rommel offered the following:

Amendment (with title amendment)

Between lines 131 and 132, insert:

Section 4. Paragraph (a) of subsection (5) of section 474.203, Florida Statutes, is amended to read:

474.203 Exemptions.—This chapter does not apply to:

(5)(a) Any person, or the person's regular employee, administering to the ills or injuries of her or his own animals, including, but not limited to, castration, spaying, and dehorning of herd animals, unless title is transferred or employment provided for the purpose of circumventing this law. This exemption does not apply to any person licensed as a veterinarian in another state or foreign jurisdiction and practicing temporarily in this state. However, except as

provided in s. 828.30, only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the laws of this state to prescribe drugs or medicinal supplies.

Between lines 322 and 323, insert:

Section 13. Subsections (1) and (3) of section 828.30, Florida Statutes, are amended to read:

828.30 Rabies vaccination of dogs, cats, and ferrets.—

(1)(a) Except as provided in paragraph (b), all dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species.

(b) An employee, agent, or contractor of an animal control authority acting under the indirect supervision of a veterinarian may vaccinate impounded animals that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. As used in this paragraph, the term "indirect supervision" means the supervising veterinarian must be available for consultation through telecommunications but is not required to be on the premises during such consultation. The

supervising veterinarian assumes responsibility for the veterinary care provided to the animal by any person working under or at his or her direction and supervision.

(c) The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies may ~~shall~~ not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.

(3) Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. Each animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government that contains all the information required by the NASPHV Rabies Vaccination Certificate. The veterinarian who administers the rabies vaccination, or who indirectly supervises an employee, agent, or contractor of an animal control authority who administers the rabies vaccination, ~~vaccine~~ to an animal as required under this section may affix his or her signature stamp in lieu of an actual signature on the rabies vaccination certificate.

T I T L E A M E N D M E N T

Remove line 20 and insert:
consulting or contracting licenses; amending s. 474.203, F.S.; providing an exception to who may immunize or treat an animal for certain diseases; amending s.

Remove line 50 and insert:
509.251, F.S., in a reference thereto; amending s. 828.30, F.S.; authorizing certain employees, agents, or contractors to administer rabies vaccinations under certain circumstances; defining the term "indirect supervision"; providing that a supervising veterinarian assumes responsibility for any person working under or at his or her direction and supervision; authorizing a veterinarian who indirectly supervises the administration of the rabies vaccination to affix his or her signature stamp in lieu of an actual signature on the rabies vaccination certificate; providing an

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 685 Rural Development
SPONSOR(S): State Affairs Committee, Drake and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) State Affairs Committee	21 Y, 0 N, As CS	Darden	Williamson
2) Infrastructure & Tourism Appropriations Subcommittee	12 Y, 0 N	Hicks	Davis
3) Commerce Committee		Walsh	Hamon

SUMMARY ANALYSIS

Florida has enacted a variety of economic grant and loan programs intended to aid the development of rural and otherwise economically distressed regions of the state, including the Regional Rural Development Grant Program, the Rural Community Development Revolving Loan Fund, and the Rural Infrastructure Fund. These programs are administered by the Department of Economic Opportunity (DEO).

The bill reduces the required non-state match amount for the Regional Rural Development Grants Program from 25 percent to 15 percent and allows in-kind contributions to count toward this threshold.

The bill removes the requirement that repaid funds from the Rural Community Development Revolving Loan Fund be matched in order to be retained to fund future loans.

Finally, the bill revises the uses of the Rural Infrastructure Fund to remove the requirement that grants be linked to financing specific projects. It increases the proportion of an infrastructure project that may be covered by the grant from 50 percent to 75 percent and increases the maximum grant for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities to $300,000 for all projects. The bill removes the local match requirement for surveys, feasibility studies, and other activities related to the identification and preclearance review of land which is suitable for preclearance review, and removes the requirement that a grant for an employment project create a minimum number of jobs.

The bill does not have a fiscal impact on state government, but may have a positive impact on local governments. See Fiscal Analysis section for details.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Rural Areas of Opportunity

A rural area of opportunity (RAO) is a rural community, or region comprised of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster.[1] An area may also be designated as an RAO if it presents a unique economic development opportunity of regional impact. The designation of an RAO must be agreed upon by the Department of Economic Opportunity (DEO), as well as the county and municipal governments to be included in the RAO.[2]

Based on recommendations of the Rural Economic Development Initiative (REDI),[3] the Governor may designate up to three RAOs by executive order.[4] This designation establishes these areas as priority assignments for REDI and allows the Governor, acting through REDI, to waive criteria, requirements, or similar provisions of any economic development initiative.

Currently, there are three designated RAO areas:

- Northwest RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and portions of Walton County (the City of Freeport and lands north of the Choctawhatchee Bay and intercoastal waterway).
- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay in Palm Beach County and the city of Immokalee in Collier County.
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.[5]

Regional Rural Development Grants Program

The Regional Rural Development Grants Program is a state matching grant program established to provide funding to build the professional capacity of regional economic development organizations.[6] Grants may be used by an economic development organization to provide technical assistance to businesses within the rural counties and communities that it serves.[7]

Applications submitted to DEO for funding through this program must provide proof:

- Of official commitments of support from each local government represented by the regional organization;
- That each local government has made a financial or in-kind commitment to the regional organization;
- That the private sector has made financial or in-kind commitments to the regional organization;

[1] S. 288.0656(2)(d), F.S. A "rural community" is any county with a population of 75,000 or fewer, any county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer, a municipality in a county that meets either of the aforementioned criteria, or an unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors. S. 288.0656(2)(e), F.S.

[2] S. 288.0656(7)(b), F.S.

[3] REDI is housed within DEO. S. 288.0656, F.S.

[4] S. 288.0656(7)(a), F.S.

[5] Dept. of Economic Opportunity, *Rural Areas of Opportunity*, https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Jan. 21, 2022). The economic development organizations for these RAOs are named Opportunity Florida, Florida's Heartland Regional Economic Development Initiative, and the North Florida Economic Development Partnership, respectively.

[6] S. 288.018, F.S.

[7] S. 288.018(1)(b), F.S.

- That the regional organization is in existence and actively involved in economic development activities serving the region; and
- Of the manner in which the regional organization coordinates its efforts with those of other local and state organizations.[8]

An organization may receive up to $50,000 a year or $250,000 if located in an RAO.[9] Grants must be matched by an amount of non-state resources equal to 25 percent of the state contribution. DEO is authorized to spend up to $750,000 each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund to carry out this program.[10]

Rural Infrastructure Fund

The Rural Infrastructure Fund is a grant program created to facilitate the planning, preparation, and financing of infrastructure projects in rural communities.[11] The program provides access to federal and state infrastructure funding programs, including, but not limited to, those offered by the United States Departments of Agriculture and Commerce.[12] The program funds total infrastructure project grants, infrastructure feasibility grants, and preclearance review grants.

DEO may award grants for up to 50 percent of the total infrastructure project cost. Projects must be related to specific job-creation or job-retention opportunities. Additionally, projects may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth, reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities, and improving access to and availability of broadband Internet service.[13]

Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites, upgrades to or development of public tourism infrastructure, and improvements to broadband Internet service and access in unserved or underserved rural communities.[14] Infrastructure can include public or public-private partnership facilities, like storm water systems, telecommunication facilities, broadband facilities, roads, and nature-based tourism.[15]

The infrastructure feasibility grant provides awards of up to 30 percent of the total project costs for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities. Maximum awards are dependent on the number of jobs that a business commits to create and may be up to $300,000 if the project is located in an RAO.[16]

The preclearance review grant provides awards to help a local government participate in expedited permitting processes through technical assistance in preparing permit applications and local comprehensive plan amendments.[17] Grants may be used for surveys, feasibility studies, and other activities related to the identification and preclearance review of land use modifications. Grants are limited to $75,000 and must be matched 50 percent with local funds. However, projects in an RAO may receive up to $300,000 and must be matched 33 percent with local funds.[18]

Grant applications are reviewed and certified by DEO in consultation with Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation

[8] S. 288.018(2), F.S.
[9] S. 288.018(1)(c), F.S.
[10] S. 288.018(4), F.S.
[11] *See* s. 288.0655, F.S.
[12] S. 288.0655(2)(b), F.S.
[13] *Id.*
[14] *Id.*
[15] Broadband Internet service must be provided in partnership with one or more dealers of communications services. S. 288.0655(2)(b), F.S.
[16] S. 288.0655(2)(c), F.S.
[17] S. 288.0655(2)(e), F.S. Expedited permitting is pursuant to s. 403.9739(18), F.S.
[18] S. 288.0655(2)(e), F.S.

Commission. Reviews include an evaluation of the economic benefit of the projects and their long-term viability.[19]

Rural Community Development Revolving Loan Fund

The Rural Community Development Revolving Loan Fund Program is a state loan program used to finance initiatives directed toward maintaining and developing the economic base of rural communities, especially initiatives addressing employment opportunities.[20] The program provides long-term loans, loan guarantees, and loan loss reserves to local governments, or economic development organizations substantially underwritten by local governments, in counties with small populations or those located within an RAO.[21] Loan repayments are generally returned to the loan fund to be made available to other applicants, but repayments made by an applicant in an RAO may be retained by the applicant if the repayments are dedicated and matched to fund regionally based economic development organizations representing the RAO and if retention of funds is approved by DEO.[22]

Effect of Proposed Changes

Regional Rural Development Grants Program

The bill reduces the required match from non-state resources from 25 percent to 15 percent and allows for in-kind contributions from all non-state contributors to count toward the match.

Rural Infrastructure Fund

The bill increases the maximum grant award from 50 percent to 75 percent of the total infrastructure cost and removes the requirement that projects must be linked to specific job-creation or job-retention opportunities.

The bill increases the maximum grant for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities to $300,000 for all projects. It removes the limitation that the grant not exceed 30 percent of the total project cost.

The bill removes the local matching funds requirement for surveys, feasibility studies, and other activities related to the identification and preclearance review of land which is suitable for preclearance review. It also removes the requirement that a grant for an employment project create or retain a minimum number of jobs.

Rural Community Development Revolving Loan Fund

The bill removes the requirement that funds be matched by the local government, or an economic development organization substantially underwritten by a local government, as long as the funds are retained for the purpose of funding regionally based economic development organizations representing the RAO.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.018, F.S., revising eligibility for the Regional Rural Development Grants Program.

Section 2: Amends s. 288.065, F.S., removing a match requirement from the Rural Community Development Revolving Loan Fund.

Section 3: Amends s. 288.0655, F.S., revising provisions relating to the Rural Infrastructure Fund.

[19] S. 288.0655(3), F.S.
[20] S. 288.065(1), F.S.
[21] S. 288.065(2)(a), F.S.
[22] S. 288.065(2)(c), F.S.

Section 4: Provides an effective date of July 1, 2022.

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:

   The bill may reduce local government expenditures to the extent that the match requirement has been reduced or they are no longer required to provide matching funds for certain projects.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Removal of the requirement that the projects must be linked to specific job-creation or job-retention opportunities may impact the local area labor market.

D. FISCAL COMMENTS:

This bill does not affect state revenues or expenditures. However, the reduction or removal of match requirements and the increase in allowable grant awards may limit the total number of grants awarded because funding of these programs remains unchanged.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 26, 2022, the State Affairs Committee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differed from the bill in that it removed:

- Revisions to exemptions to the sales and use tax and municipal public service tax that applied to businesses located in opportunity zones instead of enterprise zones;
- An expansion of the applicability of an exemption for electrical energy to include propane and natural gas;
- An increase in the value of the Rural Job Tax Credit and the reduction in the number of additional employees needed to qualify for the credit;
- A revision to a set aside of funds appropriated for the Quick-response Training Program that changed it from being used on businesses located in an enterprise zone or brownfield area to businesses located in rural areas of opportunity;
- Changes to reporting requirements and the responsibilities of state agencies related to the Rural Economic Development Initiative;
- A requirement that funds from the State Economic Enhancement and Development Trust Fund, when used for affordable housing, be set aside for projects in rural communities; and
- Provisions creating the Florida Microfinance Corporation.

This analysis is drafted to the committee substitute adopted by the State Affairs Committee.

A bill to be entitled

An act relating to rural development; amending s. 288.018, F.S.; reducing the required grant match percentage rate and authorizing in-kind contributions under the Regional Rural Development Grants Program; amending s. 288.065, F.S.; removing a match requirement from the Rural Community Development Revolving Loan Fund under specified conditions; amending s. 288.0655, F.S.; revising provisions related to the Rural Infrastructure Fund; increasing the percentage of grants that the Department of Economic Opportunity may award; revising criteria for awarding grants; removing the local match requirement; providing an effective date.

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

Section 1. Paragraph (d) of subsection (1) of section 288.018, Florida Statutes, is amended to read:

288.018 Regional Rural Development Grants Program.—

(1)

(d) Grant funds received by a regional economic development organization must be matched each year by nonstate financial or in-kind contributions ~~resources~~ in an amount equal to 15 ~~25~~ percent of the state contribution.

Section 2. Paragraph (c) of subsection (2) of section 288.065, Florida Statutes, is amended to read:

288.065 Rural Community Development Revolving Loan Fund.—

(2)

(c) All repayments of principal and interest shall be returned to the loan fund and made available for loans to other applicants. However, in a rural area of opportunity designated by the Governor, and upon approval by the department, repayments of principal and interest may be retained by the applicant if such repayments are dedicated ~~and matched~~ to fund regionally based economic development organizations representing the rural area of opportunity.

Section 3. Subsection (1), paragraphs (b), (c), and (e) of subsection (2), and subsection (3) of section 288.0655, Florida Statutes, are amended to read:

288.0655 Rural Infrastructure Fund.—

(1) There is created within the department the Rural Infrastructure Fund to facilitate the planning, preparing, and financing of infrastructure ~~projects~~ in rural communities which will encourage job creation, capital investment, and the strengthening and diversification of rural economies by promoting tourism, trade, and economic development.

(2)

(b) To facilitate access of rural communities and rural areas of opportunity as defined by the Rural Economic

Development Initiative to infrastructure funding programs of the Federal Government, such as those offered by the United States Department of Agriculture and the United States Department of Commerce, and state programs, including those offered by Rural Economic Development Initiative agencies, and to facilitate local government or private infrastructure funding efforts, the department may award grants for up to 75 ~~50~~ percent of the total infrastructure ~~project~~ cost. ~~Eligible projects must be related to specific job-creation or job-retention opportunities.~~ Eligible uses of funds ~~projects~~ may also include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth, reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities, and improving access to and the availability of broadband Internet service. Eligible uses of funds shall include improvements to public infrastructure for industrial or commercial sites, upgrades to or development of public tourism infrastructure, and improvements to broadband Internet service and access in unserved or underserved rural communities. Improvements to broadband Internet service and access must be conducted through a partnership or partnerships with one or more dealers, as defined in s. 202.11(2), and the partnership or partnerships must be established through a competitive selection process that is publicly noticed. Authorized infrastructure may include the

following public or public-private partnership facilities: storm water systems; telecommunications facilities; broadband facilities; roads or other remedies to transportation impediments; nature-based tourism facilities; or other physical requirements necessary to facilitate tourism, trade, and economic development activities in the community. Authorized infrastructure may also include publicly or privately owned self-powered nature-based tourism facilities, publicly owned telecommunications facilities, and broadband facilities, and additions to the distribution facilities of the existing natural gas utility as defined in s. 366.04(3)(c), the existing electric utility as defined in s. 366.02, or the existing water or wastewater utility as defined in s. 367.021(12), or any other existing water or wastewater facility, which owns a gas or electric distribution system or a water or wastewater system in this state where:

1. A contribution-in-aid of construction is required to serve public or public-private partnership facilities under the tariffs of any natural gas, electric, water, or wastewater utility as defined herein; and

2. Such utilities as defined herein are willing and able to provide such service.

(c) ~~To facilitate timely response and induce the location or expansion of specific job creating opportunities,~~ The department may award grants of up to $300,000 for infrastructure

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

feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities. ~~Authorized grants shall be up to $50,000 for an employment project with a business committed to create at least 100 jobs; up to $150,000 for an employment project with a business committed to create at least 300 jobs; and up to $300,000 for a project in a rural area of opportunity.~~ Grants awarded under this paragraph may be used in conjunction with grants awarded under paragraph (b)~~, provided that the total amount of both grants does not exceed 30 percent of the total project cost~~. In evaluating applications under this paragraph, the department shall consider the extent to which the application seeks to minimize administrative and consultant expenses.

(e) To enable local governments to access the resources available pursuant to s. 403.973(18), the department may award grants for surveys, feasibility studies, and other activities related to the identification and preclearance review of land which is suitable for preclearance review. Authorized grants under this paragraph do not require a local match and may not exceed $75,000 each, except in the case of a project in a rural area of opportunity, in which case the grant may not exceed $300,000. ~~Any funds awarded under this paragraph must be matched at a level of 50 percent with local funds, except that any funds awarded for a project in a rural area of opportunity must be matched at a level of 33 percent with local funds. If an~~

~~application for funding is for a catalyst site, as defined in s. 288.0656, the requirement for local match may be waived pursuant to the process in s. 288.06561.~~ In evaluating applications under this paragraph, the department shall consider the extent to which the application seeks to minimize administrative and consultant expenses.

(3) The department, in consultation with Enterprise Florida, Inc., the Florida Tourism Industry Marketing Corporation, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission, as appropriate, shall review and certify applications pursuant to s. 288.061. The review shall include an evaluation of the economic benefit ~~of the projects~~ and ~~their~~ long-term viability. The department shall have final approval for any grant under this section.

Section 4. This act shall take effect July 1, 2022.

COMMERCE COMMITTEE

HB 685 by Rep. Drake
Rural Development

AMENDMENT SUMMARY
February 17, 2022

Amendment 1 by Rep. Drake (Lines18-58):

- Removes nonstate matching requirements for the Regional Rural Development Grants Program and the Rural Community Development Revolving Loan Fund.
- Authorizes grants under the Rural Infrastructure Fund to be awarded for up to 100 percent of the total infrastructure project cost for certain rural communities.

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: Commerce Committee
Representative Drake offered the following:

Amendment (with title amendment)

Remove lines 18-58 and insert:

Section 1. Subsections (1) and (2) of section 288.018, Florida Statutes, are amended to read:

288.018 Regional Rural Development Grants Program.—

(1)(a) For the purposes of this section, the term "regional economic development organization" means an economic development organization located in or contracted to serve a rural area of opportunity, as defined in s. 288.0656(2)(d).

(b) The department shall establish a ~~matching~~ grant program to provide funding to regional economic development organizations for the purpose of building the professional capacity of those organizations. Building the professional

capacity of a regional economic development organization includes hiring professional staff to develop, deliver, and provide needed economic development professional services, including technical assistance, education and leadership development, marketing, and project recruitment. ~~Matching~~ Grants may also be used by a regional economic development organization to provide technical assistance to local governments, local economic development organizations, and existing and prospective businesses.

(c) A regional economic development organization may apply annually to the department for a ~~matching~~ grant. The department is authorized to approve, on an annual basis, grants to such regional economic development organizations. The maximum amount an organization may receive in any year will be $50,000, or $250,000 for any three regional economic development organizations that serve an entire region of a rural area of opportunity designated pursuant to s. 288.0656(7) if they are recognized by the department as serving such a region.

~~(d) Grant funds received by a regional economic development organization must be matched each year by nonstate resources in an amount equal to 25 percent of the state contribution.~~

(2) In approving the participants, the department shall consider the demonstrated need of the applicant for assistance and require the following:

(a) Documentation of official commitments of support from each of the units of local government represented by the regional organization.

~~(b) Demonstration that each unit of local government has made a financial or in-kind commitment to the regional organization.~~

~~(c) Demonstration that the private sector has made financial or in-kind commitments to the regional organization.~~

(b) ~~(d)~~ Demonstration that the organization is in existence and actively involved in economic development activities serving the region.

(c) ~~(e)~~ Demonstration of the manner in which the organization is or will coordinate its efforts with those of other local and state organizations.

Section 2. Paragraph (c) of subsection (2) of section 288.065, Florida Statutes, is amended to read:

288.065 Rural Community Development Revolving Loan Fund.—

(2)

(c) All repayments of principal and interest shall be returned to the loan fund and made available for loans to other applicants. However, in a rural area of opportunity designated by the Governor, and upon approval by the department, repayments of principal and interest may be retained by the applicant if such repayments are dedicated ~~and matched~~ to fund regionally

based economic development organizations representing the rural area of opportunity.

Section 3. Subsection (1), paragraphs (b), (c), and (e) of subsection (2), and subsection (3) of section 288.0655, Florida Statutes, are amended to read:

288.0655 Rural Infrastructure Fund.—

(1) There is created within the department the Rural Infrastructure Fund to facilitate the planning, preparing, and financing of infrastructure ~~projects~~ in rural communities which will encourage job creation, capital investment, and the strengthening and diversification of rural economies by promoting tourism, trade, and economic development.

(2)

(b) To facilitate access of rural communities and rural areas of opportunity as defined by the Rural Economic Development Initiative to infrastructure funding programs of the Federal Government, such as those offered by the United States Department of Agriculture and the United States Department of Commerce, and state programs, including those offered by Rural Economic Development Initiative agencies, and to facilitate local government or private infrastructure funding efforts, the department may award grants for up to ~~50~~ 75 percent of the total infrastructure project cost, or up to 100 percent of the total infrastructure project cost for a project located in a rural community as defined in s. 288.0656(2)(e) or a rural area of

opportunity as defined in s. 288.0656(2)(d), and is also located in a fiscally constrained county as defined in s. 218.67(1). ~~Eligible projects must be related~~

T I T L E A M E N D M E N T

Remove lines 3-4 and insert:
288.018, F.S.; removing the required grant match

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 701 Boating and Vessel Safety
SPONSOR(S): Environment, Agriculture & Flooding Subcommittee, Tourism, Infrastructure & Energy Subcommittee, McFarland
TIED BILLS: **IDEN./SIM. BILLS:** SB 1650

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	18 Y, 0 N, As CS	Neuffer	Keating
2) Environment, Agriculture & Flooding Subcommittee	18 Y, 0 N, As CS	Mamontoff	Moore
3) Commerce Committee		Neuffer	Hamon

SUMMARY ANALYSIS

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state. Within the FWC, the Division of Law Enforcement enforces boating rules and regulations, coordinates boating safety campaigns and education, and investigates boating accidents.

Any person born on or after January 1, 1988, who wishes to operate a vessel powered by a motor 10 horsepower or greater must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA). The NASBLA provides minimum standards which are reviewed every five years and apply to all basic boating courses across the U.S. and its territories.

In 2018, federal law went into effect requiring operators of vessels less than 26 feet in length and with three or more horsepower to employ an engine cut-off switch if installed on the vessel. Florida has a similar law but with regard only to jet skis.

The bill may be cited as “Ethan’s Law.”

The bill requires that FWC include as components in boating safety education campaigns and education material, as appropriate, the following:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are onboarding or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires that operators of vessels used in the instruction of water sports or activities use an engine cut-off switch and wear an operative engine cut-off switch link when people participating in the water sport or activity are in the water.

The bill does not have an impact on state or local government revenues. The bill does not have an impact on local government expenditures. The bill may have an insignificant fiscal impact on state government expenditures.

The bill provides an effective date of October 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state.[1] The Division of Law Enforcement within the FWC is tasked with the enforcement of boating rules and regulations, coordinating boating safety campaigns and education, and investigating boating accidents.

In 2020, there were 836 boating accidents in the state of Florida.[2] Of those accidents, 79 resulted in fatalities, with 69% of operators having no formal boater education.[3]

Any person born on or after January 1, 1988, must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA) in order to operate a vessel powered by a motor of 10 horsepower or greater.[4] Any operator required by statute to complete the boating safety education course must carry a boating education ID card and a photo ID while operating any qualifying vessel.[5]

NASBLA provides minimum standards that apply to all basic boating courses in the U.S. and its territories.[6] The minimum standards are reviewed every five years with the purpose of establishing a national standard for all courses across the nation. Under current NASBLA standards, courses must describe state-required equipment, such as engine cut-off lanyards or bailing devices.[7] Courses must additionally cover boat operation, trip planning, and emergency preparation.[8] There are several courses within the state of Florida which meet NASBLA's 8-hour instruction requirement, ranging from no cost to $50.[9] A boating safety education course card is valid for life unless it was obtained through a temporary examination, in which instance it is valid for only 90 days.[10]

Florida law specifies certain equipment and lighting standards for all vessels operated in the waters of the state, and identifies the equipment which must be carried, stored, maintained, and used in accordance with current United States Coast Guard (USCG) safety equipment requirements.[11]

Federal law requires any individual operating a covered recreational vessel[12] to use an engine cut-off switch link while operating on plane or above displacement speed.[13] Any manufacturer, distributer, or dealer of propulsion machinery associated with starting controls on a covered recreational vessel must equip such vessel with an engine cut-off switch and an engine cut-off switch link.[14] Engine cut-off switches are normally coiled bungee cords but can also be electronic wireless devices. They operate to

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[1] Art. IV, s. 9, Fla. Const.
[2] Florida Fish and Wildlife Conservation Commission, *2020 Boating Accident Statistical Report*, 2020, https://myfwc.com/media/26463/2020-basr-booklet.pdf (last visited January 13, 2022).
[3] *Id.*
[4] *See* s. 327.395(6)(a)-(g), F.S., (listing exemptions from the boating safety education course requirement).
[5] S. 327.395(2), F.S.
[6] *See* ANSI/NASBLA, *103-2016: Basic Boating Knowledge – Power* (November 18, 2015).
[7] *See* National Association of State Boating Law Administrators, *NASBLA Policy: Basic Boating Education Course Approval* (September 13, 2016) (describing the minimum educational requirements of a boating course for NASBLA approval).
[8] *Id.*
[9] FWC, *Boating Safety Courses*, https://myfwc.com/boating/safety-education/courses/ (last visited January 4, 2022).
[10] S. 327.395(5), F.S.
[11] S. 327.50, F.S.
[12] *See* 46 U.S.C. § 4312(e)(1) (defining covered recreational vessel as a recreational vessel that is less than 26 feet overall in length and capable of developing 115 pounds or more of static thrust); *see* 46 U.S.C. § 4312(e)(6) (defining static thrust as the forward or backwards thrust developed by propulsion machinery while stationary).
[13] 46 U.S.C. § 4312(b).
[14] 46 U.S.C. § 4312(a).

shut off the engine if the operator is separated from the operating area, reducing the dangers created by a runaway vessel or impact with the spinning propeller.[15] A person in violation of this law is liable for a civil penalty to the United States Government of not more than $100 for the first offense,[16] $250 for the second offense,[17] and $500 for any subsequent offense.[18] Although the law did not go into effect until 2018, most U.S. boat manufacturers had already voluntarily installed engine cut-off switches on their boats.[19] Exceptions are provided for vessels if the main helm is within an enclosed cabin, or if the vessel is not required to have an engine cut-off switch.[20]

Florida's current law provides a similar mandate but only for personal watercraft, commonly identified as jet skis.[21]

Effect of Proposed Changes

The bill expands the list of topics that must be covered in FWC boating safety education campaigns and commission materials to include:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are onboarding or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires the operator of a vessel used in a water sport or activity which causes participants to be in the water to use an engine cutoff switch and wear an operative link to the switch when participants are in the water. The bill does not provide a legal penalty for failure to comply with the bill.

B. SECTION DIRECTORY:

Section 1 Provides a short title.

Section 2 Amends s. 327.395, F.S.; relating to boating safety education.

Section 3 Amends s. 327.50, F.S.; relating to vessel safety regulations.

Section 4 Provides an effective date of October 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

[15] USCG, *Engine Cut-Off Switches, supra.*
[16] 46 U.S.C. § 4311(c)(1).
[17] 46 U.S.C. § 4311(c)(2).
[18] 46 U.S.C. § 4311(c)(3).
[19] United States Coast Guard, *Engine Cut-Off Switches*, https://uscgboating.org/recreational-boaters/engine-cut-off-devices.php (last visited January 4, 2022).
[20] 46 U.S.C. § 4312(b)(2).
[21] S. 327.39, F.S.; *see* s. 327.02(37) (defining "personal watercraft" as a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel).

2. Expenditures:

   The bill appears to have an insignificant impact to FWC expenditures necessary to incorporate the required items into education campaigns and materials.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motorized vessels that are not covered under federal law and which are used for the instruction of water sports and activities will be required to have an engine cut-off switch installed if not already equipped with one.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The 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 bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 18, 2022, the Tourism, Infrastructure & Energy Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided the act be designated “Ethan’s Law.”
- Clarified that the operator of a vessel used in the instruction of a water sport or activity must use an engine cutoff switch and operative link.

On February 8, 2022, the Environment, Agriculture & Flooding Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date to of October 1, 2022.

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.

A bill to be entitled

An act relating to boating and vessel safety; providing a short title; amending s. 327.395, F.S.; requiring certain boating safety education courses and temporary certificate examinations to include specified components; directing the Fish and Wildlife Conservation Commission to include such components in boating safety education campaigns and certain educational materials; amending s. 327.50, F.S.; requiring operators of vessels used in the instruction of water sports and activities to use engine cutoff switches and wear operative links to the switches under certain conditions; providing an effective date.

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

Section 1. This act may be cited as "Ethan's Law."

Section 2. Subsection (4) of section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety education.—

(4) A commission-approved boating safety education course or temporary certificate examination developed or approved by the commission must include components ~~a component~~ regarding:

(a) Diving vessels, awareness of divers in the water, divers-down warning devices, and the requirements of s. 327.331.

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

(b) The danger associated with:

1. A passenger riding on a seat back, gunwale, transom, bow, motor cover, or any other vessel area not designed and designated by the manufacturer for seating.

2. A passenger falling overboard.

3. Operating a vessel with a person in the water near the vessel.

4. Starting a vessel with the engine in gear.

5. Leaving the vessel running when a passenger is boarding or disembarking.

(c) The proper use and lifesaving benefits of an engine cutoff switch for motorboats and personal watercraft.

The commission must include the components under this subsection in boating safety education campaigns and in educational materials produced by the commission, as appropriate.

Section 3. Subsection (4) is added to section 327.50, Florida Statutes, to read:

327.50 Vessel safety regulations; equipment and lighting requirements.—

(4) The operator of a vessel used in the instruction of a water sport or activity must use an engine cutoff switch and wear an operative link to the switch when a person participating in the water sport or activity is in the water.

Section 4. This act shall take effect October 1, 2022.

HB 705

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 705 Mergers and Acquisitions Reporting
SPONSOR(S): Grall
TIED BILLS: **IDEN./SIM. BILLS:** SB 1112

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	15 Y, 0 N	Wright	Anstead
2) Appropriations Committee	25 Y, 0 N	Saag	Pridgeon
3) Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

Healthy competition in economic markets keeps prices low and quality high for consumers. When one entity becomes too strong, it can stifle competition, leading to higher prices and harm to consumers. Antitrust law exists to protect consumers by promoting competition in the marketplace.

The U.S. Congress, and many states, have passed several laws to help promote competition by outlawing unfair methods of competition. One such law is the Hart-Scott-Rodino Act (HSRA), which requires entities to provide certain federal government agencies with information about large mergers and acquisitions before they occur, in a notification form called the "Notification and Report Form for Certain Mergers and Acquisitions" (HSRA filing).

Currently, the Florida Office of the Attorney General (OAG) does not receive notice of HSRA filings unless they are voluntarily provided by the combining entities or discovered through public sources. In addition, such sources are not generally made publicly available by the federal government.

The bill requires any entity conducting business in the state to provide notice to the OAG that it has submitted an HSRA filing at the same time the HSRA filing is filed with the federal government.

The bill may have an indeterminate, but likely insignificant impact on workload within the OAG. However, this minimal impact can be absorbed within existing resources. The bill has no impact on local governments.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Antitrust Law

Healthy competition in economic markets keeps prices low and quality high for consumers. When one entity becomes too strong or entertains unfair methods of competition, it can stifle competition, leading to higher prices and harm to consumers. Antitrust law exists to protect competition, but not necessarily individual competitors in economic markets, based on the idea that an unregulated market will lead to the creation of coercive monopolies.[1]

Federal antitrust law includes the Sherman Antitrust Act, the Clayton Act, and the Federal Trade Commission Act. These laws are enforced in federal district court[2] by the U.S. Department of Justice (DOJ), the Federal Trade Commission (FTC), state Attorneys General, and private plaintiffs. Antitrust case law is well-developed, and it is often difficult to distinguish aggressive, pro-competitive conduct—which is legal—from predatory, anti-competitive conduct.[3]

The Clayton Act[4] prohibits specific business actions, including mergers and acquisitions, which may substantially lessen competition. To determine whether a merger violates the Clayton Act, a court must decide whether the merger is likely to create an appreciable danger of anticompetitive effects. [5]

The Sherman Antitrust Act[6] prohibits any attempt to restrain trade or form a monopoly in a predatory manner. A monopoly has two elements: (1) monopoly power and (2) willful acquisition or maintenance of that power, as opposed to power naturally resulting from a superior product, acumen, or historic accident. Penalties for violating the Sherman Act include up to ten years' imprisonment and a fine up to $100 million for a corporation or $1 million for any other person.[7]

The Florida Antitrust Act of 1980[8] is intended to complement federal antitrust law in order to foster effective competition. Implemented by the Office of the Attorney General (OAG), it essentially mirrors the federal Sherman Act, and prohibits:[9]

- Every contract, combination, or conspiracy in restraint of trade or commerce;[10] and
- Monopolization or attempted monopolization of any part of trade or commerce.[11]

A Florida antitrust law violation is punishable by up to three years' imprisonment and fines up to $1 million for a corporation and $100,000 for any other person.[12] There is also a private right of action for any person injured by certain antitrust violations.[13]

Florida law does not provide a corollary to the federal Clayton Act, which specifically targets mergers and acquisitions that may lessen competition. However, the Attorney General considers the Florida

[1] John J. Miles, *Antitrust Primer*, 20140513 AHLA Seminar Papers 1 (2014) (The purpose of antitrust law is to "protect and promote competition as the primary method by which this country allocates scarce resources to maximize the welfare of consumers.").
[2] Steven Fox, *Litigation Under Florida's Deceptive and Unfair Trade Practices Act, the Florida Antitrust Act, or Federal Antitrust Statutes*, The Florida Bar, Business Litigation in Florida (2017) (Federal district courts have exclusive jurisdiction over federal antitrust actions).
[3] Animesh Ballabh, *Antitrust Law: An Overview,* 88 J. Pat. & Trademark Off. Soc'y 877 (2006); John J. Miles, Antitrust Primer, 20140513 AHLA Seminar Papers 1 (2014).
[4] 15 U.S.C. § 18;
[5] *See also Olin Corp. v. FTC*, 986 F.2d 1295, 1305 (9th Cir. 1993) (discussing how plaintiff's establishment of a prima facie case on statistical evidence is first step in a court's analysis); *Chicago Bridge & Iron Co. v. FTC*, 534 F.3d 410, 423 (5th Cir. 2008).
[6] 15 U.S.C. §§ 1 et seq.
[7] 15 U.S.C. § 1.
[8] Ss. 542.15 – 542.36, F.S.
[9] S. 542.16, F.S.
[10] S. 542.18, F.S.
[11] S. 542.19, F.S.
[12] S. 542.21, F.S.
[13] Ss. 542.21 and 542.22, F.S.

Antitrust Act of 1980 and the Florida Deceptive and Unfair Trade Practices Act broad enough to encompass those types of violations.[14]

Premerger Notification Program

The Hart-Scott-Rodino Act[15] (HSRA), an amendment to the Clayton Act, established the federal Premerger Notification Program (PNP), which provides the FTC and the DOJ with information about large mergers and acquisitions before they occur.[16] The PNP was established to avoid some of the difficulties and expense that the enforcement agencies encounter when they challenge anticompetitive acquisitions after they have occurred. Prior review under the PNP enables the FTC and the DOJ to determine which acquisitions are likely to be anticompetitive and to challenge them at a time when remedial action is most effective.[17]

The parties to certain proposed transactions must submit premerger notification to the FTC and DOJ. Premerger notification involves completing the "Notification and Report Form for Certain Mergers and Acquisitions" (HSRA filing) with information about each company's business.[18]

HSRA requires persons contemplating proposed business transactions that satisfy certain size criteria to report their intentions to the enforcement agencies before consummating the transaction. If the proposed transaction is reportable, then both the acquiring person and the person whose business is being acquired must submit information about their respective business operations to the enforcement agencies and wait a specific period of time before consummating the proposed transaction. During that waiting period, the enforcement agencies review the antitrust implications of the proposed transaction. Whether a particular transaction is reportable is determined by application of HSRA, the related rules, and formal and informal staff interpretations.

As a general matter, HSRA and the related rules require both acquiring and acquired persons to file notifications under the PNP if all of the following conditions are met:[19]

- As a result of the transaction, the acquiring person will hold an aggregate amount of voting securities, non-corporate interests (NCI) and/or assets of the acquired person valued in excess of $200 million (as adjusted), regardless of the sales or assets of the acquiring and acquired persons ; or
- As a result of the transaction, the acquiring person will hold an aggregate amount of voting securities, NCI and/or assets of the acquired person valued in excess of $50 million (as adjusted) but at $200 million (as adjusted) or less; and
- One person has sales or assets of at least $100 million (as adjusted); and
- The other person has sales or assets of at least $10 million (as adjusted).

Florida's Role in Premerger Actions

State Attorneys General, including Florida's, have power under the Clayton Act to independently sue to enjoin a merger or acquisition. But, according to industry experts, State Attorneys General (State AGs) do not have access to the same investigative tools as federal enforcers, such as automatically receiving HSRA filings. For this reason, State AGs more typically allow the federal agencies to take the lead in merger investigations and enforcement actions.[20]

[14] Florida Attorney General, *Antitrust*, http://myfloridalegal.com/antitrust (last visited Feb. 7, 2022).
[15] 15 U.S.C. § 18a.
[16] Federal Trade Commission, *Premerger Notification Program*, Premerger Notification Program | Federal Trade Commission (ftc.gov) (last visited Feb. 7, 2022).
[17] FTC Premerger Notification Office, *Introductory Guide I*, p. 1 (Mar. 2009), Introductory Guide 1- What is the Premerger Notification Program? An Overview (ftc.gov) (last visited Feb. 7, 2022).
[18] FTC, *supra* note 16.
[19] FTC PNO, *supra* note 17 at 2-3.
[20] Bruning Law Group, *State Attorneys General and Their Influence on Merger Enforcement*, State Attorneys General and Their Influence on Merger Enforcement - Bruning Law Group (last visited Feb. 7, 2022).

The HSRA contains confidentiality provisions[21] that prohibit the federal agencies from sharing information gathered pursuant to the HSR Act with State AGs absent the consent of the merging parties. According to industry practitioners, in order to avoid the burden of having to comply with multiple demands for information, the parties generally provide such consent. Upon receiving consent from the merging parties, the federal agencies are permitted to provide State AGs with copies of any issued civil investigative demands or second requests.[22]

The OAG has expressed that receiving notices of these transactions prior to their consummation will enable the OAG to stop anticompetitive transactions and preserve competition.[23]

Effect of the Bill

The bill requires any entity conducting business in the state to provide notice to the OAG that it has submitted an HSRA filing at the same time the HSRA filing is filed with the federal government.

B. SECTION DIRECTORY:

Section 1: Provides filing requirements for certain large entities participating in a merger or acquisition.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Receiving an increased amount of HSRA filings may insignificantly increase OAG workload.[24] However, any fiscal impacts associated with workload increases can be absorbed within existing resources.

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:

[21] 15 U.S.C. § 18A(h).
[22] Bruning Law Group, *supra* note 20.
[23] Office of the Attorney General, Agency Analysis of 2022 House Bill 705, Jan. 25, 2022.
[24] *Id*.

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:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to mergers and acquisitions reporting; creating s. 542.275, F.S.; requiring certain entities to submit written notice of a specified filing to the Office of the Attorney General relating to certain transactions; providing an effective date.

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

Section 1. Section 542.275, Florida Statutes, is created to read:

542.275 Mergers and acquisitions reporting; notice required.—Any entity conducting business in the state which is required to file the Notification and Report Form for Certain Mergers and Acquisitions pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. s. 18a(a), shall provide written notice of such filing to the Office of the Attorney General at the same time that notice is filed with the Federal Government.

Section 2. This act shall take effect July 1, 2022.

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

CS/HB 907

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 907 Florida Seaport Transportation and Economic Development Council
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee, Payne
TIED BILLS: **IDEN./SIM. BILLS:** SB 1038

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	15 Y, 0 N, As CS	Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	12 Y, 0 N	Davis	Davis
3) Commerce Committee		Johnson	Hamon

SUMMARY ANALYSIS

Florida law designates 15 deepwater seaports: Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina. These seaports are represented on the Florida Seaport Transportation Economic Development (FSTED) Council, which approves specified types of seaport projects and recommends funding under the FSTED program.

The Putnam County Port District operates an inland river port, located along the St. Johns River in Putnam County. The county has plans to dredge the channel to the port in order to increase commerce.

The bill adds Putnam County as a member of the FSTED Council.

The bill provides that until July 1, 2024, Putnam County may apply for a grant through the FSTED Council to perform a study examining the economic, technical, and operational viability of establishing a port in Putnam County. The FSTED Council must evaluate the grant application pursuant to specified requirements in law and if approved, the Department of Transportation must include the study in its budget request for FSTED funding. Upon completion of the study, the FSTED Council must review the study to determine if a port in Putnam County is viable. If the FSTED Council does not approve the study, Putnam County's membership on the council must terminate.

The bill reenacts various statutes that cross-reference the seaports making up the FSTED Council to incorporate Putnam County into those statutes.

The bill has an indeterminate fiscal impact on state government expenditures, but costs would be limited to available transportation revenues within the Work Program. See Fiscal Analysis section for details.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida is home to 15 deepwater seaports: Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina,[1] which are independently governed and operated.[2]

The Department of Transportation's (DOT) Seaports Office works with the seaports to assist with planning and funding strategic seaport projects, as well as assisting with seaport-related issues. DOT's Seaports Office is responsible for statewide seaport system planning, coordinating with statewide freight planning, project management, and coordinating seaport infrastructure projects.[3]

Florida Seaport Transportation and Economic Development (FSTED) Program/FSTED Council

Created in 1990,[4] the Florida Seaport Transportation and Economic Development (FSTED) Program within DOT finances port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo or passengers in commerce and trade and support the interests, purposes, and requirements of all 15 seaports.[5]

The FSTED Council is charged with carrying out the state's economic development mission through implementation of seaport capital improvement projects at the local level. The FSTED Council is created within DOT and consists of the port directors of the 15 deepwater seaports and representatives from DOT and the Department of Economic Opportunity (DEO).[6]

Under Florida law, a minimum of $25 million per year must be made available from the State Transportation Trust Fund for the FSTED Program. The FSTED Council must develop guidelines and recommendations for project funding. Council staff, DOT, and DEO must work in cooperation to review projects and allocate funds in accordance with the schedule required for DOT to include these projects in its tentative work program.[7]

DOT must include FSTED funding in its annual legislative budget request, including funding for FSTED Council-approved projects which have been determined by DOT and DEO to be consistent with Florida law. DOT must include the approved FSTED projects during the ensuing fiscal year in its tentative work program. The total amount of funding to be allocated to the FSTED Program during the successive 4 fiscal years must also be included in DOT's tentative work program.[8]

FSTED Program funds must be used to fund approved projects on a 50-50 matching basis with the relevant deepwater seaport. However, program funds used to fund projects that involve the rehabilitation of wharves, docks, berths, bulkheads, or similar structures require a 25 percent match of funds. Program funds may also be used by the FSTED Council for data and analysis that will assist Florida's seaports and international trade.[9]

Projects eligible for funding by grants under the FSTED Program are limited to the following port facilities or port transportation projects:

[1] S. 311.09(1), F.S.
[2] Department of Transportation (DOT), Agency Analysis of 2022 Senate Bill 1038 p.2. (Dec. 6, 2021).
[3] *Id.*
[4] Ch. 90-136, Laws of Fla.
[5] S. 311.07(1), F.S.
[6] S. 311.09(1), F.S. Florida Ports Council, *Florida Seaport Transportation and Economic Development Program*, https://flaports.org/about/florida-seaport-transportation-and-economic-development-program/ (last visited Dec. 15, 2021).
[7] S. 311.07(2), F.S. DOT's work program is developed pursuant to s. 339.135, F.S.
[8] S. 311.07(9), F.S.
[9] S. 311.07(3)(a), F.S.

- Transportation facilities within the jurisdiction of the port.
- The dredging or deepening of channels, turning basins, or harbors.
- The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing.
- The acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce.
- The acquisition of land to be used for port purposes.
- The acquisition, improvement, enlargement, or extension of existing port facilities.
- Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or which result from the funding of eligible projects.
- Transportation facilities which are not otherwise part of DOT's adopted work program.
- Intermodal access projects.
- Construction or rehabilitation of port facilities, excluding any park or recreational facilities, in ports with operating revenues of $5 million or less, provided that such projects create economic development opportunities, capital improvements, and positive financial returns to such ports.
- Seaport master plan or strategic plan development or updates, including the purchase of data to support such plans.[10]

To be eligible for consideration by the FSTED Council, a project must be consistent with the port comprehensive master plan that is incorporated as part of the approved local government comprehensive plan.[11]

Putnam County Port District

Created in 1967 by special act,[12] the Putnam County Port District is a dependent special district consisting of all of Putnam County. Its board consists of the Putnam County Board of County Commissioners. The district operates an inland river port, located along the St. Johns River in the county.

Putnam County proposes dredging a 5,000-foot branch channel on the St. Johns River from the current barge berth to the St. Johns channel and adding a turning basin to enhance both navigability and safety. The current depth is 7 feet at low water. The proposed dredging will increase the depth to 12 feet at low water, allowing the size and capacity of vessels able to visit the port to increase substantially.[13]

Effect of the Bill

The bill adds Putnam County as a member the FSTED Council.

The bill provides that until July 1, 2024, Putnam County may apply for a grant through the FSTED Council to perform a study examining the economic, technical, and operational viability of establishing a port in Putnam County. The FSTED Council must evaluate the grant application pursuant to the statutory provisions that govern the council's review of other proposed port projects.[14] If approved, DOT must include the feasibility study in its budget request for FSTED funding. Upon completion, the FSTED

[10] S. 311.07(3)(a), F.S.
[11] S. 311.07(3)(c), F.S.
[12] Ch. 67-1961, Laws of Fla.
[13] Attachment to e-mail from SaraLynn Ard, Legislative Aide to Rep. Payne, FW: PowerPoint (Jan. 21, 2022).
[14] Sections 311.09(5)-(8), F.S., provide for the review and approval of FSTED projects including reviews for consistency with various plans, economic benefit, readiness for construction, noncompetition with other Florida ports, and capacity within the seaport system. The FSTED Council's recommendations are reviewed by DOT for consistency with various state-related transportation plans and by DEO for economic benefits and consistency with the state's economic goals. The council reviews DOT's and DEO's findings, and projects not found to be consistent may not be funded.

Council must review the study to determine if a port in Putnam County is viable. If the FSTED Council does not approve the study, Putnam County's membership on the council must terminate.

The bill reenacts various statutes which cross-reference the seaports making up the FSTED Council to incorporate Putnam County into those statutes. These statutes include, but are not limited to, statutes relating to coastal management, seaport funding, seaport security, the confidentiality of certain records held by deepwater ports, exemptions from certain laws regarding stormwater management, and port conceptual permits.

The bill has an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1 Amends s. 311.09, F.S., relating to the Florida Seaport Transportation and Economic Development Council.

Section 2 Reenacts s. 163.3178, F.S., relating to coastal management.

Section 3 Reenacts s. 189.068, F.S., relating to special districts; authority for oversight; general oversight review process.

Section 4 Reenacts s. 311.07, F.S., relating to Florida seaport transportation and economic development funding.

Section 5 Reenacts s. 311.091, F.S., relating to entry into public-private infrastructure project agreements for port-related public infrastructure projects.

Section 6 Reenacts s. 311.10, F.S., relating to the Strategic Port Investment Initiative.

Section 7 Reenacts s. 311.101, F.S., relating to the Intermodal Logistics Center Infrastructure Support Program.

Section 8 Reenacts s. 311.12, F.S., relating to seaport security.

Section 9 Reenacts s. 311.121, .F.S., relating to qualifications, training, and certification of licensed security officers at Florida's seaports.

Section 10 Reenacts s. 311.14, F.S., relating to seaport planning.

Section 11 Reenacts s. 315.18, F.S., relating to the confidentiality of certain records held by deepwater ports.

Section 12 Reenacts s. 320.20, F.S., relating to the disposition of license tax moneys.

Section 13 Reenacts s. 334.27, F.S., relating to governmental transportation entities' property acquired for transportation purposes; limitation on soil and groundwater contamination liability.

Section 14 Reenacts s. 337.14, F.S., relating to application for qualification; certificate of qualification; restrictions; request for hearing.

Section 15 Reenacts s. 373.406, F.S., relating to exemptions regarding the management and storage of surface waters.

Section 16 Reenacts s. 373.4133, F.S., relating to port conceptual permits.

Section 17 Reenacts s. 373.4136, F.S., relating to the establishment and operation of mitigation banks.

Section 18 Reenacts s. 403.061, F.S., relating to department; powers and duties.

Section 19 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   If a study is approved by the FSTED Council, DOT must include the project as part of its Tentative Work Program submission to the Legislature in FY 2023-24. The cost of the study is indeterminate at this time, but any costs would be limited to available transportation revenues within the confines of the Work Program.

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 bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2022, the Tourism, Infrastructure & Energy Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarified that the feasibility study for a port in Putnam County must examine the economic, technical, and operational viability of the port.
- Required the FSTED Council to review the feasibility study and make a determination regarding the viability of a port in Putnam County.

This analysis is drafted to the committee substitute as approved by the Tourism, Infrastructure & Energy Subcommittee.

A bill to be entitled

An act relating to the Florida Seaport Transportation and Economic Development Council; amending s. 311.09, F.S.; revising the membership of the Florida Seaport Transportation and Economic Development Council to include a representative of Putnam County; authorizing Putnam County to apply for a grant for a port feasibility study through the Florida Seaport Transportation and Economic Development Council; providing for the evaluation of the application; requiring the Department of Transportation to include the study in its budget request under certain circumstances; requiring the council to review the study and make a determination; terminating the membership of Putnam County on the council under certain circumstances; reenacting ss. 163.3178(2)(k), (5), and (6), 189.068(6), 311.07(1) and (3)(a) and (b), 311.091, 311.10(1) and (2), 311.101(2), 311.12(2)(a), (3), and (6)(a), 311.121(2) and (3)(a), 311.14(1), 315.18, 320.20(3) and (4), 334.27(1), 337.14(7), 373.406(12), 373.4133(2) and (10), 373.4136(6)(d), and 403.061(38) and (39), F.S., relating to coastal management, the oversight of deepwater ports, Florida seaport transportation and economic development funding, entry into public-

private infrastructure project agreements for port-related public infrastructure projects, the Strategic Port Investment Initiative within the department, the Intermodal Logistics Center Infrastructure Support Program, seaport security, licensed security officers at Florida seaports, seaport planning, the confidentiality of certain records held by deepwater ports, the disposition of license tax moneys, the definition of the term "governmental transportation entity," seaport contractor services, exemptions for overwater piers, docks, or similar structures in deepwater ports, port conceptual permits, the authorized use of mitigation banks, and the duties of the Department of Environmental Protection in providing environmental resource permits, respectively, to incorporate the amendment made to s. 311.09, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (1) of section 311.09, Florida Statutes, is amended, and subsection (13) is added to that section, to read:

311.09 Florida Seaport Transportation and Economic

Development Council.—

(1) The Florida Seaport Transportation and Economic Development Council is created within the Department of Transportation. The council consists of the following 18 ~~17~~ members: the port director, or the port director's designee, of each of the ports of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina; the secretary of the Department of Transportation or his or her designee; and the secretary of the Department of Economic Opportunity or his or her designee.

(13) Until July 1, 2024, Putnam County may apply for a grant through the Florida Seaport Transportation and Economic Development Council to perform a study examining the economic, technical, and operational viability of the establishment of a port in Putnam County. The council shall evaluate the grant application pursuant to subsections (5)-(8) and, if approved, the Department of Transportation must include the feasibility study in its budget request pursuant to subsection (9). The council shall review the study upon completion to determine if a port in Putnam County is viable. If the council does not approve the study, the membership of Putnam County on the council must terminate.

Section 2. For the purpose of incorporating the amendment

made by this act to section 311.09, Florida Statutes, in references thereto, paragraph (k) of subsection (2) and subsections (5) and (6) of section 163.3178, Florida Statutes, are reenacted to read:

163.3178 Coastal management.—

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(k) A component which includes the comprehensive master plan prepared by each deepwater port listed in s. 311.09(1), which addresses existing port facilities and any proposed expansions, and which adequately addresses the applicable requirements of paragraphs (a)-(k) for areas within the port and proposed expansion areas. Such component shall be submitted to the appropriate local government at least 6 months prior to the due date of the local plan and shall be integrated with, and shall meet all criteria specified in, the coastal management element. "The appropriate local government" means the municipality having the responsibility for the area in which the deepwater port lies, except that where no municipality has responsibility, where a municipality and a county each have responsibility, or where two or more municipalities each have responsibility for the area in which the deepwater port lies, "the appropriate local government" means the county which has

responsibility for the area in which the deepwater port lies. Failure by a deepwater port which is not part of a local government to submit its component to the appropriate local government shall not result in a local government being subject to sanctions pursuant to s. 163.3184. However, a deepwater port which is not part of a local government shall be subject to sanctions pursuant to s. 163.3184.

(5) The appropriate dispute resolution process provided under s. 186.509 must be used to reconcile inconsistencies between port master plans and local comprehensive plans. In recognition of the state's commitment to deepwater ports, the state comprehensive plan must include goals, objectives, and policies that establish a statewide strategy for enhancement of existing deepwater ports, ensuring that priority is given to water-dependent land uses. As an incentive for promoting plan consistency, port facilities as defined in s. 315.02(6) on lands owned or controlled by a deepwater port as defined in s. 311.09(1), as of the effective date of this act shall not be subject to development-of-regional-impact review provided the port either successfully completes an alternative comprehensive development agreement with a local government pursuant to ss. 163.3220-163.3243 or successfully enters into a development agreement with the state land planning agency and applicable local government pursuant to s. 380.032 or, where the port is a department of a local government, successfully enters into a

development agreement with the state land planning agency pursuant to s. 380.032. Port facilities as defined in s. 315.02(6) on lands not owned or controlled by a deepwater port as defined in s. 311.09(1) as of the effective date of this act shall not be subject to development-of-regional-impact review provided the port successfully enters into a development agreement with the state land planning agency and applicable local government pursuant to s. 380.032 or, where the port is a department of a local government, successfully enters into a development agreement with the state land planning agency pursuant to s. 380.032.

(6) Each port listed in s. 311.09(1) and each local government in the coastal area which has spoil disposal responsibilities shall provide for or identify disposal sites for dredged materials in the future land use and port elements of the local comprehensive plan as needed to assure proper long-term management of material dredged from navigation channels, sufficient long-range disposal capacity, environmental sensitivity and compatibility, and reasonable cost and transportation. The disposal site selection criteria shall be developed in consultation with navigation and inlet districts and other appropriate state and federal agencies and the public. For areas owned or controlled by ports listed in s. 311.09(1) and proposed port expansion areas, compliance with the provisions of this subsection shall be achieved through

comprehensive master plans prepared by each port and integrated with the appropriate local plan pursuant to paragraph (2)(k).

Section 3. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, subsection (6) of section 189.068, Florida Statutes, is reenacted to read:

189.068 Special districts; authority for oversight; general oversight review process.—

(6) This section does not apply to a deepwater port listed in s. 311.09(1) which is in compliance with a port master plan adopted pursuant to s. 163.3178(2)(k), or to an airport authority operating in compliance with an airport master plan approved by the Federal Aviation Administration, or to any special district organized to operate health systems and facilities licensed under chapter 395, chapter 400, or chapter 429.

Section 4. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in references thereto, subsection (1) and paragraphs (a) and (b) of subsection (3) of section 311.07, Florida Statutes, are reenacted to read:

311.07 Florida seaport transportation and economic development funding.—

(1) There is created the Florida Seaport Transportation and Economic Development Program within the Department of

Transportation to finance port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo or passengers in commerce and trade and support the interests, purposes, and requirements of all ports listed in s. 311.09.

(3)(a) Florida Seaport Transportation and Economic Development Program funds shall be used to fund approved projects on a 50-50 matching basis with any of the deepwater ports, as listed in s. 311.09, which is governed by a public body or any other deepwater port which is governed by a public body and which complies with the water quality provisions of s. 403.061, the comprehensive master plan requirements of s. 163.3178(2)(k), and the local financial management and reporting provisions of part III of chapter 218. However, program funds used to fund projects that involve the rehabilitation of wharves, docks, berths, bulkheads, or similar structures shall require a 25-percent match of funds. Program funds also may be used by the Seaport Transportation and Economic Development Council for data and analysis that will assist Florida's seaports and international trade.

(b) Projects eligible for funding by grants under the program are limited to the following port facilities or port transportation projects:

1. Transportation facilities within the jurisdiction of the port.

2. The dredging or deepening of channels, turning basins, or harbors.

3. The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing.

4. The acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce.

5. The acquisition of land to be used for port purposes.

6. The acquisition, improvement, enlargement, or extension of existing port facilities.

7. Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or which result from the funding of eligible projects listed in this paragraph.

8. Transportation facilities as defined in s. 334.03(30) which are not otherwise part of the Department of Transportation's adopted work program.

9. Intermodal access projects.

10. Construction or rehabilitation of port facilities as

defined in s. 315.02, excluding any park or recreational facilities, in ports listed in s. 311.09(1) with operating revenues of $5 million or less, provided that such projects create economic development opportunities, capital improvements, and positive financial returns to such ports.

11. Seaport master plan or strategic plan development or updates, including the purchase of data to support such plans.

Section 5. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, section 311.091, Florida Statutes, is reenacted to read:

311.091 Entry into public-private infrastructure project agreements for port-related public infrastructure projects.—A seaport listed in s. 311.09(1) may receive or solicit proposals from and enter into a public-private infrastructure project agreement with a private entity, or a consortium of private entities, to build, operate, manage, maintain, or finance a port-related public infrastructure project.

Section 6. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in references thereto, subsections (1) and (2) of section 311.10, Florida Statutes, are reenacted to read:

311.10 Strategic Port Investment Initiative.—

(1) There is created the Strategic Port Investment Initiative within the Department of Transportation. Beginning in

fiscal year 2012-2013, a minimum of $35 million annually shall be made available from the State Transportation Trust Fund to fund the Strategic Port Investment Initiative. The Department of Transportation shall work with the deepwater ports listed in s. 311.09 to develop and maintain a priority list of strategic investment projects. Project selection shall be based on projects that meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities by:

(a) Providing important access and major on-port capacity improvements;

(b) Providing capital improvements to strategically position the state to maximize opportunities in international trade, logistics, or the cruise industry;

(c) Achieving state goals of an integrated intermodal transportation system; and

(d) Demonstrating the feasibility and availability of matching funds through local or private partners.

(2) Prior to making final project allocations, the Department of Transportation shall schedule a publicly noticed workshop with the Department of Economic Opportunity and the deepwater ports listed in s. 311.09 to review the proposed projects. After considering the comments received, the Department of Transportation shall finalize a prioritized list of potential projects.

Section 7. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, subsection (2) of section 311.101, Florida Statutes, is reenacted to read:

311.101 Intermodal Logistics Center Infrastructure Support Program.—

(2) For the purposes of this section, the term "intermodal logistics center," including, but not limited to, an "inland port," means a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09.

Section 8. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in references thereto, paragraph (a) of subsection (2), subsection (3), and paragraph (a) of subsection (6) of section 311.12, Florida Statutes, are reenacted to read:

311.12 Seaport security.—

(2) SECURITY PLAN.—

(a) Each seaport listed in s. 311.09 shall adopt and maintain a security plan specific to that seaport which provides for a secure seaport infrastructure that promotes the safety and

security of state residents and visitors and the flow of legitimate trade and travel.

(3) SECURE AND RESTRICTED AREAS.—Each seaport listed in s. 311.09 must clearly designate in seaport security plans, and clearly identify with appropriate signs and markers on the premises of a seaport, all secure and restricted areas as defined by 33 C.F.R. part 105.

(a)1. All seaport employees and other persons working at the seaport who have regular access to secure or restricted areas must comply with federal access control regulations as prescribed in this section.

2. All persons and objects in secure and restricted areas are subject to search by a sworn state-certified law enforcement officer, a Class D seaport security officer certified under Maritime Transportation Security Act of 2002 guidelines, or an employee of the seaport security force certified under the Maritime Transportation Security Act of 2002 guidelines.

3. Persons found in these areas without the proper permission are subject to the trespass provisions of ss. 810.08 and 810.09.

(b) The seaport must provide clear notice of the prohibition against possession of concealed weapons and other contraband material on the premises of the seaport. Any person in a restricted area who has in his or her possession a concealed weapon, or who operates or has possession or control

of a vehicle in or upon which a concealed weapon is placed or stored, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This paragraph does not apply to active-duty certified federal or state law enforcement personnel or persons so designated by the seaport director in writing.

(c) During a period of high terrorist threat level, as designated by the United States Department of Homeland Security, the management or controlling authority of the port may temporarily designate any part of the seaport property as a secure or restricted area. The duration of such designation is limited to the period in which the high terrorist threat level is in effect or a port emergency exists.

(6) GRANT PROGRAM.—

(a) The Florida Seaport Transportation and Economic Development Council shall establish a Seaport Security Grant Program for the purpose of assisting in the implementation of security plans and security measures at the seaports listed in s. 311.09(1). Funds may be used for the purchase of equipment, infrastructure needs, cybersecurity programs, and other security measures identified in a seaport's approved federal security plan. Such grants may not exceed 75 percent of the total cost of the request and are subject to legislative appropriation.

Section 9. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in

references thereto, subsection (2) and paragraph (a) of subsection (3) of section 311.121, Florida Statutes, are reenacted to read:

311.121 Qualifications, training, and certification of licensed security officers at Florida seaports.—

(2) The authority or governing board of each seaport identified under s. 311.09 that is subject to the seaport security standards referenced in s. 311.12 shall require that a candidate for certification as a seaport security officer:

(a) Has received a Class D license as a security officer under chapter 493.

(b) Has successfully completed the certified training curriculum for a Class D license or has been determined by the Department of Agriculture and Consumer Services to have equivalent experience as established by rule of the department.

(c) Has completed the training or training equivalency and testing process established by this section for becoming a certified seaport security officer.

(3) The Seaport Security Officer Qualification, Training, and Standards Coordinating Council is created under the Department of Law Enforcement.

(a) The executive director of the Department of Law Enforcement shall appoint 11 members to the council, to include:

1. The seaport administrator of the Department of Law Enforcement.

2. The Commissioner of Education or his or her designee.

3. The director of the Division of Licensing of the Department of Agriculture and Consumer Services.

4. The administrator of the Florida Seaport Transportation and Economic Development Council.

5. Two seaport security directors from seaports designated under s. 311.09.

6. One director of a state law enforcement academy.

7. One representative of a local law enforcement agency.

8. Two representatives of contract security services.

9. One representative of the Department of Highway Safety and Motor Vehicles.

Section 10. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, subsection (1) of section 311.14, Florida Statutes, is reenacted to read:

311.14 Seaport planning.—

(1) The Department of Transportation shall develop, in coordination with the ports listed in s. 311.09(1) and other partners, a Statewide Seaport and Waterways System Plan. This plan shall be consistent with the goals of the Florida Transportation Plan developed pursuant to s. 339.155 and shall consider needs identified in individual port master plans and those from the seaport strategic plans required under this section. The plan will identify 5-year, 10-year, and 20-year

needs for the seaport system and will include seaport, waterway, road, and rail projects that are needed to ensure the success of the transportation system as a whole in supporting state economic development goals.

Section 11. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, section 315.18, Florida Statutes, is reenacted to read:

315.18 Confidentiality of certain records held by deepwater ports.—Any proposal or counterproposal exchanged between a deepwater port listed in s. 311.09(1) and any nongovernmental entity, relating to the sale, use, or lease of land or of port facilities, and any financial records submitted by any nongovernmental entity to such a deepwater port for the purpose of the sale, use, or lease of land or of port facilities, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, 30 days before any such proposal or counterproposal is considered for approval by the governing body of such a deepwater port, the proposal or counterproposal shall cease to be exempt. If no proposal or counterproposal is submitted to the governing body for approval, such a proposal or counterproposal shall cease to be exempt 90 days after the cessation of negotiations.

Section 12. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in

references thereto, subsections (3) and (4) of section 320.20, Florida Statutes, are reenacted to read:

320.20 Disposition of license tax moneys.—The revenue derived from the registration of motor vehicles, including any delinquent fees and excluding those revenues collected and distributed under the provisions of s. 320.081, must be distributed monthly, as collected, as follows:

(3) Notwithstanding any other provision of law except subsections (1) and (2), $15 million shall be deposited annually into the State Transportation Trust Fund solely for the purposes of funding the Florida Seaport Transportation and Economic Development Program as provided in chapter 311. Such revenues shall be distributed on a 50-50 matching basis to any port listed in s. 311.09(1) to be used for funding projects as described in s. 311.07(3)(b). Such revenues may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness issued by an individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal agreement among any of the ports, or used to purchase credit support to permit such borrowings. However, such debt is not a general obligation of the state. The state covenants with holders of such revenue bonds or other instruments of indebtedness issued that it will not repeal or impair or amend in any manner that will materially and adversely affect the

rights of such holders so long as bonds authorized by this section are outstanding. Any revenues that are not pledged to the repayment of bonds authorized by this section may be used for purposes authorized under the Florida Seaport Transportation and Economic Development Program. This revenue source is in addition to any amounts provided and appropriated in accordance with s. 311.07. The Florida Seaport Transportation and Economic Development Council shall approve the distribution of funds to ports for projects that have been approved pursuant to s. 311.09(5)-(8). The council and the Department of Transportation may perform acts required to facilitate and implement this subsection. To better enable the ports to cooperate to their mutual advantage, the governing body of each port may exercise powers provided to municipalities or counties in s. 163.01(7)(d) subject to chapter 311 and special acts, if any, pertaining to a port. The use of funds provided pursuant to this subsection are limited to eligible projects listed in this subsection. Income derived from a project completed with the use of program funds, beyond operating costs and debt service, is restricted solely to further port capital improvements consistent with maritime purposes. Use of such income for nonmaritime purposes is prohibited. The revenues available under this subsection may not be pledged to the payment of any bonds other than the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds currently outstanding; however, such revenues may be pledged to

secure payment of refunding bonds to refinance the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds. Refunding bonds secured by revenues available under this subsection may not be issued with a final maturity later than the final maturity of the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds or which provide for higher debt service in any year than is currently payable on such bonds. Any revenue bonds or other indebtedness issued after July 1, 2000, other than refunding bonds shall be issued by the Division of Bond Finance at the request of the Department of Transportation pursuant to the State Bond Act.

(4) Notwithstanding any other provision of law except subsections (1), (2), and (3), $10 million shall be deposited annually into the State Transportation Trust Fund solely for the purposes of funding the Florida Seaport Transportation and Economic Development Program as provided in chapter 311 and for funding seaport intermodal access projects of statewide significance as provided in s. 341.053. Such revenues shall be distributed to any port listed in s. 311.09(1), to be used for funding projects as follows:

(a) For any seaport intermodal access projects that are identified in the 1997-1998 Tentative Work Program of the Department of Transportation, up to the amounts needed to offset the funding requirements of this section.

(b) For seaport intermodal access projects as described in

s. 341.053(6) which are identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3). Funding for such projects shall be on a matching basis as mutually determined by the Florida Seaport Transportation and Economic Development Council and the Department of Transportation if a minimum of 25 percent of total project funds come from any port funds, local funds, private funds, or specifically earmarked federal funds.

(c) On a 50-50 matching basis for projects as described in s. 311.07(3)(b).

(d) For seaport intermodal access projects that involve the dredging or deepening of channels, turning basins, or harbors; or the rehabilitation of wharves, docks, or similar structures. Funding for such projects requires a 25 percent match of the funds received pursuant to this subsection. Matching funds must come from port funds, federal funds, local funds, or private funds.

Such revenues may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or other form of indebtedness issued by an individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal agreement among any of the ports, or used to purchase credit support to permit such borrowings. However, such debt is not a general obligation of the state. This state covenants with holders of

such revenue bonds or other instruments of indebtedness issued hereunder that it will not repeal, impair, or amend this subsection in a manner that will materially and adversely affect the rights of holders while bonds authorized by this subsection remain outstanding. Revenues that are not pledged to the repayment of bonds as authorized by this section may be used for purposes authorized under the Florida Seaport Transportation and Economic Development Program. This revenue source is in addition to any amounts provided for and appropriated in accordance with s. 311.07 and subsection (3). The Florida Seaport Transportation and Economic Development Council shall approve distribution of funds to ports for projects that have been approved pursuant to s. 311.09(5)-(8), or for seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3) and mutually agreed upon by the Florida Seaport Transportation and Economic Development Council and the Department of Transportation. All contracts for actual construction of projects authorized by this subsection must include a provision encouraging employment of participants in the welfare transition program. The goal for such employment is 25 percent of all new employees employed specifically for the project, unless the Department of Transportation and the Florida Seaport Transportation and Economic Development Council demonstrate that such a requirement would severely hamper the successful completion of the project. In such an instance,

CareerSource Florida, Inc., shall establish an appropriate percentage of employees who are participants in the welfare transition program. The council and the Department of Transportation may perform such acts as are required to facilitate and implement the provisions of this subsection. To better enable the ports to cooperate to their mutual advantage, the governing body of each port may exercise powers provided to municipalities or counties in s. 163.01(7)(d) subject to the provisions of chapter 311 and special acts, if any, pertaining to a port. The use of funds provided pursuant to this subsection is limited to eligible projects listed in this subsection. The revenues available under this subsection may not be pledged to the payment of any bonds other than the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds currently outstanding; however, such revenues may be pledged to secure payment of refunding bonds to refinance the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds. Refunding bonds secured by revenues available under this subsection may not be issued with a final maturity later than the final maturity of the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds and may not provide for higher debt service in any year than is currently payable on such bonds. Any revenue bonds or other indebtedness issued after July 1, 2000, other than refunding bonds shall be issued by the Division of Bond Finance at the request of the Department of

Transportation pursuant to the State Bond Act.

Section 13. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, subsection (1) of section 334.27, Florida Statutes, is reenacted to read:

334.27 Governmental transportation entities; property acquired for transportation purposes; limitation on soil or groundwater contamination liability.—

(1) For the purposes of this section, the term "governmental transportation entity" means the department; an authority created pursuant to chapter 343, chapter 348, or chapter 349; airports as defined in s. 332.004(14); a port enumerated in s. 311.09(1); a county; or a municipality.

Section 14. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, subsection (7) of section 337.14, Florida Statutes, is reenacted to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(7) A "contractor" as defined in s. 337.165(1)(d) or his or her "affiliate" as defined in s. 337.165(1)(a) qualified with the department under this section may not also qualify under s. 287.055 or s. 337.105 to provide testing services, construction, engineering, and inspection services to the department. This limitation does not apply to any design-build prequalification

under s. 337.11(7) and does not apply when the department otherwise determines by written order entered at least 30 days before advertisement that the limitation is not in the best interests of the public with respect to a particular contract for testing services, construction, engineering, and inspection services. This subsection does not authorize a contractor to provide testing services, or provide construction, engineering, and inspection services, to the department in connection with a construction contract under which the contractor is performing any work. Notwithstanding any other provision of law to the contrary, for a project that is wholly or partially funded by the department and administered by a local governmental entity, except for a seaport listed in s. 311.09 or an airport as defined in s. 332.004, the entity performing design and construction engineering and inspection services may not be the same entity.

Section 15. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, subsection (12) of section 373.406, Florida Statutes, is reenacted to read:

373.406 Exemptions.—The following exemptions shall apply:

(12) An overwater pier, dock, or a similar structure located in a deepwater port listed in s. 311.09 is not considered to be part of a stormwater management system for which this chapter or chapter 403 requires stormwater from

impervious surfaces to be treated if:

(a) The port has a stormwater pollution prevention plan for industrial activities pursuant to the National Pollutant Discharge Elimination System Program; and

(b) The stormwater pollution prevention plan also provides similar pollution prevention measures for other activities that are not subject to the National Pollutant Discharge Elimination System Program and that occur on the port's overwater piers, docks, and similar structures.

Section 16. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in references thereto, subsections (2) and (10) of section 373.4133, Florida Statutes, are reenacted to read:

373.4133 Port conceptual permits.—

(2) Any port listed in s. 311.09(1) may apply to the department for a port conceptual permit, including any applicable authorization under chapter 253 to use sovereignty submerged lands under a joint coastal permit pursuant to s. 161.055 or an environmental resource permit issued pursuant to this part, for all or a portion of the area within the geographic boundaries of the port. A private entity with a controlling interest in property used for private industrial marine activities in the immediate vicinity of a port listed in s. 311.09(1) may also apply for a port conceptual permit under this section. A port conceptual permit may be issued for a

period of up to 20 years and extended one time for an additional 10 years. A port conceptual permit constitutes the state's conceptual certification of compliance with state water quality standards for purposes of s. 401 of the Clean Water Act and the state's conceptual determination that the activities contained in the port conceptual permit are consistent with the state coastal zone management program.

(10) In lieu of meeting the generally applicable stormwater design standards in rules adopted under this part, which create a presumption that stormwater discharged from the system will meet the applicable state water quality standards in the receiving waters, any port listed in s. 311.09(1) may propose alternative stormwater treatment and design criteria for the construction, operation, and maintenance of stormwater management systems serving overwater piers. The proposal shall include such structural components or best management practices to address the stormwater discharge from the pier, including consideration of activities conducted on the pier, as are necessary to provide reasonable assurance that stormwater discharged from the system will meet the applicable state water quality standards in the receiving waters.

Section 17. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in a reference thereto, paragraph (d) of subsection (6) of section 373.4136, Florida Statutes, is reenacted to read:

373.4136 Establishment and operation of mitigation banks.—

(6) MITIGATION SERVICE AREA.—The department or water management district shall establish a mitigation service area for each mitigation bank permit. The department or water management district shall notify and consider comments received on the proposed mitigation service area from each local government within the proposed mitigation service area. Except as provided herein, mitigation credits may be withdrawn and used only to offset adverse impacts in the mitigation service area. The boundaries of the mitigation service area shall depend upon the geographic area where the mitigation bank could reasonably be expected to offset adverse impacts. Mitigation service areas may overlap, and mitigation service areas for two or more mitigation banks may be approved for a regional watershed.

(d) If the requirements in s. 373.414(1)(b) and (8) are met, the following projects or activities regulated under this part shall be eligible to use a mitigation bank, regardless of whether they are located within the mitigation service area:

1. Projects with adverse impacts partially located within the mitigation service area.

2. Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or seaports listed in s. 311.09(1).

3. Projects with total adverse impacts of less than 1 acre in size.

Section 18. For the purpose of incorporating the amendment made by this act to section 311.09, Florida Statutes, in references thereto, subsections (38) and (39) of section 403.061, Florida Statutes, are reenacted to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(38) Provide a supplemental permitting process for the issuance of a joint coastal permit pursuant to s. 161.055 or environmental resource permit pursuant to part IV of chapter 373, to a port listed in s. 311.09(1), for maintenance dredging and the management of dredged materials from maintenance dredging of all navigation channels, port harbors, turning basins, and harbor berths. Such permit shall be issued for a period of 5 years and shall be annually extended for an additional year if the port is in compliance with all permit conditions at the time of extension. The department is authorized to adopt rules to implement this subsection.

(39) Provide a supplemental permitting process for the issuance of a conceptual joint coastal permit pursuant to s. 161.055 or environmental resource permit pursuant to part IV of chapter 373, to a port listed in s. 311.09(1), for dredging and the management of materials from dredging and for other related activities necessary for development, including the expansion of

navigation channels, port harbors, turning basins, harbor berths, and associated facilities. Such permit shall be issued for a period of up to 15 years. The department is authorized to adopt rules to implement this subsection.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 19. This act shall take effect July 1, 2022.

CS/CS/HB 959

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 959 Department of Financial Services
SPONSOR(S): Finance & Facilities Subcommittee, Insurance & Banking Subcommittee, LaMarca
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1874

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	16 Y, 0 N, As CS	Herendeen	Luczynski
2) Finance & Facilities Subcommittee	18 Y, 0 N, As CS	Lloyd	Lloyd
3) Appropriations Committee	24 Y, 0 N	Lee	Pridgeon
4) Commerce Committee		Herendeen	Hamon

SUMMARY ANALYSIS

The bill makes changes to programs of the Department of Financial Services (DFS):

- Amends several laws related to a multi-year upgrade to the state's financial systems, known as the PALM Project (Planning, Accounting, and Ledger Management).
- Makes Division of Rehabilitation and Liquidation employees part of the State Group Insurance Program.
- Transfers the Stop Inmate Fraud Program from the Division of Public Assistance Fraud to the Department of Economic Opportunity.
- Reduces penalties and creates educational tools within the Division of Workers' Compensation:
  - Changes the definition of "employer" used in workers' compensation law;
  - Requires an online tutorial for persons seeking an exemption from the workers' compensation law;
  - Lengthens a deadline for non-compliant employers to submit payroll records for penalty calculation;
  - Reduces penalties for employers with no prior incidents of non-compliance;
  - Requests an exemption from the legislative rule ratification process for reimbursement manuals that govern payments to ambulatory surgical centers, healthcare providers, and hospitals;
  - Provides that a required notice of rights may be sent to employees by mail or email; and
  - Eliminates a requirement for in-person payroll audits of some construction businesses.
- In the Division of State Fire Marshal, the bill updates boiler regulations related to inspections and deletes a $50 exam fee; makes changes to the certification requirements for firefighters and fire safety inspectors; and permits the use of grant funding to pay for tools and protective clothing.
- Amends licensing requirements for embalmers and funeral directors regulated by the Division of Funeral, Cemetery, and Consumer Services.
- Makes process served upon the Chief Financial Officer (CFO) binding on an insurer when DFS notifies the insurer that process is available on a secure online portal;
- Amends laws of the Division of Insurance Agent and Agency Services to:
  - Add an exemption to the examination requirement for the all-lines adjuster license;
  - Provide additional authority for investigation of licensees;
  - Allow unaffiliated insurance agents to adjust claims without surrendering their appointments;
  - Revise statutes related to the use of fingerprints in background checks, to comply with federal law;
  - Create notice requirements for insurance agencies that stop doing business;
  - Clarify existing laws for title agents and agencies; and
  - Modifies existing laws for public adjuster compensation, qualifications and bonding requirements.
- Transfers the Florida Patient's Compensation Fund to the CFO until dissolution by December 31, 2023.

The bill has an indeterminate fiscal impact on state and local government and the private sector.

The bill provides an effective date of July 1, 2022; except otherwise provided.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Planning, Accounting, and Ledger Management (PALM) Project

Since 2014, the Department of Financial Services (DFS) has been upgrading its financial systems, known as the Cash Management Subsystem (CMS) and the Florida Accounting Information Resource subsystem (FLAIR), which were developed in the 1970s and implemented in the 1980s.[1]

Effect of the Bill

Amendments reflect the transition to the new financial system, called Florida PALM (Planning, Accounting, and Ledger Management) which has begun. A task force that developed a business plan for the new financial and cash management system is disbanded. Technical changes are made because agencies will no longer need to post a journal transfer to notify the Chief Financial Officer (CFO) that a charge-back is needed. The term "Cash Management Subsystem" is replaced with "Financial Management Subsystem." [2]

Division of Rehabilitation and Liquidation

The DFS Division of Rehabilitation and Liquidation serves as the receiver whenever an insolvent Florida insurer is ordered into rehabilitation or liquidation. The division has 51 employees and 14 retirees who participate in the Florida Retirement System; these persons have not been part of the State Group Insurance Program (SGI Program), because their salaries and benefits are funded by assets managed by the division rather than state appropriations. To be eligible for participation in the SGI Program, an employee must be paid by a state warrant. The SGI Program includes health and welfare insurance benefits for active and retired state employees and their families, including: health insurance; flexible spending and health savings accounts; life insurance; and dental, vision, and supplemental insurance products.[3]

Effect of the Bill

The bill makes full- and part-time state employees, retired employees, and surviving spouses of employees of the Division of Rehabilitation and Liquidation eligible for the SGI Program, beginning with the 2023 plan year.

The bill amends the definitions for full- and part-time state employees, retirees, and surviving spouses to make such persons eligible for benefits even though employees of the Division of Rehabilitation and Liquidation are not paid by state warrant. The cost of employee health insurance would continue to be paid by estates that are liquidated by the division; therefore, no state appropriations are needed. The division would no longer have the administrative burden of procuring health insurance on its own in the private market.

The division would be responsible for paying the monthly premiums that currently apply to early retirees, as follows:

[1] S. 17.0315, F.S.
[2] Florida Department of Financial Services, *Florida PALM*, https://www.myfloridacfo.com/floridapalm/ (last visited Feb. 14, 2022).
[3] S. 110.123, F.S.

Current Premiums for "Early Retirees"[4]	Monthly Cost
High Deductible Plan – Individual	$736.80
High Deductible Plan – Family	$1,632.05
Standard Plan – enhance benefits – Individual	$805.12
Standard Plan – enhance benefits – Family	$1,801.08

Division of Accounting and Auditing

Every state and local government entity provides its financial information to DFS annually, so DFS can prepare annual financial statements for the state of Florida and provide an online clearinghouse for the financial statements of every county, municipality, and special district in Florida. The Florida Open Financial Statement System is open to public inspection.[5]

Effect of the Bill

The bill changes the name of the state's annual report from "comprehensive annual financial report[6]" to "annual comprehensive financial report." The bill also specifies the electronic file format (XBRL) local governments must use to file audits and financial reports with the Florida Open Financial Statement System. This is intended to create efficiencies in local government financial reporting and implement the recommendations of the OPPAGA Local Efficiency Task Force.[7]

Division of Public Assistance Fraud

Since 2011, DFS has been responsible for investigations of public assistance fraud.[8]

The Stop Inmate Fraud Program provides for the sharing of correctional records that are open to public inspection with state agencies involved in fraud detection, so the state can compare correctional records with records of the Department of Children and Families (DCF) and the Department of Economic Opportunity (DEO), to identify inmates receiving benefits or reemployment assistance.[9] Correctional records may also be matched against the client files of any other state or local agency as needed to identify persons who are wrongfully receiving benefits.[10]

Florida law directs DFS to establish procedures and implement the record-sharing program, conduct database searches, and share relevant results with counties where benefits such as food stamps, Medicaid, and cash assistance originate.[11] Results may also be shared with the Child Support Enforcement Program of the Department of Revenue to locate persons who are not paying child support, and to the Social Security Administration, to reduce federal entitlement fraud in Florida.[12]

The DFS Division of Public Assistance Fraud (PAF) receives corrections data and transmits the data to the agencies listed in s. 414.40, F.S., as part of an interagency agreement. DCF performs the initial screening of incarceration status of persons receiving public assistance. Investigators employed by the PAF act on referrals from DCF. Investigators can obtain the incarceration status of individuals under investigation from the website of the Department of Corrections. DFS has not promulgated rules for the Stop Inmate Fraud Program and does not anticipate any costs associated with the transfer to DEO.

[4] Ch. 2021-36, Laws of Fla., pp. 425-426.
[5] S. 218.32(1)(h), F.S.
[6] S. 216.102(3)(b), F.S.
[7] Department of Financial Services (DFS), Agency Analysis of 2022 CS/CS/House Bill 959, pg. 6 (Feb. 1, 2022).
[8] SB 2156 (2011) moved the Stop Inmate Fraud Program from the Department of Law Enforcement to the Department of Financial Services.
[9] S. 414.40, F.S.
[10] S. 414.40(2)(d), F.S.
[11] S. 414.40(2), F.S.
[12] S. 414.40(2)(e), F.S.

Florida law provides two methods for reorganizations within the executive branch: 1) An existing agency or department may be transferred to another agency or department; or 2) A unit of an existing agency or department may be merged into another agency or department. Any funds allocated to the agency, department, or program being transferred move to the agency or department accepting the transfer. Applicable administrative rules remain in effect until they are changed by rulemaking promulgated by the agency that accepted the transfer.[13]

Effect of the Bill

The bill transfers the Stop Inmate Fraud Program from PAF to DEO by merging the record-sharing program into the DEO. The bill states that a type two transfer is intended and directs DEO to implement the Stop Inmate Fraud Program and share the results of data-matching with counties where such benefits originated. In addition to sharing results with the Child Support Enforcement Program and the Social Security Administration, DEO may share results with PAF.

There is no funding from either DFS or DEO associated with the transfer, and PAF has not promulgated rules for the record-sharing program. However, the transfer is proposed in connection with a recommended appropriation in the Governor's proposed budget for the 2022-2023 fiscal year[14] of $4.2 million in recurring contracted services.

DEO proposes to use a single vendor to monitor state correctional and county jail data for state agencies that are affected by benefit fraud, including the Agency for Health Care Administration (Medicaid), DCF (SNAP and TANF), DEO (Reemployment Assistance), and Child Support Enforcement (Department of Revenue).

Division of Workers' Compensation

Workers' compensation is a no-fault system that provides medical benefits and compensation for lost wages when an employee is injured or killed in the course of employment. Employers must secure coverage, and may do so by purchasing insurance from an authorized carrier or through an employee-leasing agreement, qualifying as a self-insurer, or purchasing coverage from the Florida Workers' Compensation Joint Underwriting Association, Inc. (FWCJUA)[15], which is the state-sponsored insurer of last resort. In return for providing compensation, the employer is relieved of liability for workplace injuries and may only be sued for intentional acts that result in injury or death.[16]

Definition of Employer

Chapter 440, F.S., includes a specific definition of "employer" for the purposes of workers' compensation, at s. 440.02(16)(a), F.S., which states:

> "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. "Employer" also includes employment agencies, employee leasing companies, and similar agents who provide employees to other persons. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all

[13] S. 20.06, F.S.
[14] Freedom First Budget for Fiscal Year 2022-23, Department of Economic Opportunity, *Stop Inmate Fraud Program*, http://www.freedomfirstbudget.com/web%20forms/Budget/BudgetIssueDetail.aspx?p=Stop%20inmate%20fraud&AgencyTitle=ECONOMIC%20OPPORTUNITY%20%3E%20WORKFORCE%20SERVICES%20(Program)%20%3E%20REEMPLOYMENT%20ASSISTANCE%20PROGRAM%20%3E%20&si=40200200&pc=1102000000&icd=8100850&title=STOP%20INMATE%20FRAUD%20PROGRAM (last visited Feb. 14, 2022).
[15] S. 627.311(5)(a), F.S.
[16] Ss. 440.015, 440.09, 440.10, 440.38, and 627.313, F.S.

shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105, 440.106, and 440.107.

The meaning of the words "similar agents" was disputed in a lawsuit brought against the FWCJUA, which refused to issue a policy to an out-of-state talent agency doing business in Florida because the talent agency was not licensed in Florida as an employee leasing company.

The question of whether the FWCJUA was required to issue a policy to the talent agency was not resolved, but the First District Court of Appeal held that the use of the words "similar agents" in the definition of employer supported the conclusion that the talent agency was an employer subject to the workers' compensation law, even though the talent agency was not an employee leasing company subject to licensure in Florida.[17]

Effect of the Bill

The bill deletes the works "similar agents" from the statutory definition of employer used in the Workers' Compensation Law.[18]

Exemptions

All private sector non-construction businesses with four or more employees must have workers' compensation coverage for employees, and may provide coverage by purchasing insurance or qualifying as a self-insurer. In the construction industry, coverage is required for every employee, even if a business consists of a sole proprietor.[19]

Corporate officers identified in a charter or articles of incorporation filed with the Division of Corporations of the Department of State may elect an exemption from Florida's Workers' Compensation Law[20] by electronically submitting a form and paying a $50 fee to the DFS Division of Workers' Compensation (DWC). By doing so, the exempt officer indicates that he or she is not covered by workers' compensation insurance, and not entitled to benefits in the event of injury. In the construction industry, no more than three corporate officers may elect such exemptions.[21]

If a corporate officer elects an exemption, or DWC revokes an exemption, DWC sends a notice to any carrier the corporate officer identified in his or her application for exemption.[22]

Effect of the Bill

The bill adds an online tutorial to the exemption application process to ensure that business owners receive accurate information and understand the penalties that can result from violations of the coverage and compliance requirements. Corporate officers would have to complete the online tutorial to obtain an exemption. DWC has videos on a variety of topics posted on its website.

Additional changes include:

- Applicants must provide the Federal Employer Identification Number of their business rather than a personal Social Security number;
- A notice would be added to the Certificate of Election to be Exempt, stating that the certificate is not a license issued by the Department of Business and Professional Regulation.

[17] *Florida Workers' Compensation Joint Underwriting Association, Inc. v. American Residuals and Talent, Inc.*, 284 So.3d 1115, 1119 (Fla. 1st DCA 2019).
[18] *See* ch. 440, F.S.
[19] S. 440.02(17)(b)2, F.S.
[20] Ch. 440, F.S.
[21] Ss. 440.02(15)(a) and 440.05, F.S.
[22] S. 440.05(3), F.S.

- A provision that requires exempt corporate officers in the construction industry to maintain business records would be deleted.
- And DWC would send electronic notice that a corporate officer has elected an exemption, or has been issued a notice of revocation only upon the request of an insurance carrier, and thus avoid the cost of mailing notices (which can be retrieved online) to any carrier(s) the corporate officer identified in his or her application for exemption.

The proposed effective date for changes to s. 440.05, F.S., is January 1, 2023.

Compliance

DWC investigators visit worksites around the state to identify businesses that are required to secure the payment of workers' compensation for their employees but fail to do so.

If an investigator identifies employees who are not covered by workers' compensation insurance and do not have an exemption from the law, the investigator issues a stop-work order and advises the employer that business records reflecting payroll during the two years prior to the stop-work order are due within 10 business days.[23]

If there is reason to believe an employer has materially misrepresented the number of employees on the payroll, concealed information about injuries or accidents that would affect the amount of premium due to the insurer, or misclassified employee duties to avoid paying appropriate premium, the investigator issues a request for business records to determine if a penalty is warranted. If the employer does not produce business records within 10 business days, the investigator serves a stop-work order.[24]

Stop-work orders cannot be released until the employer pays the penalty in full.[25] However, stop-work orders may be conditionally released if the employer secures compensation for all employees and provides proof of insurance to DWC, pays a $1,000 down-payment toward the assessed penalty, and enters into a payment agreement or pays the penalty in full.[26] DWC will not enter into a payment agreement with an employer that has defaulted on a prior payment agreement; in such cases, DWC reinstates a stop-work order that had been conditionally released.[27] DWC posts information about stop-work orders on its website for five years and is required to update such orders daily.[28]

Penalties must be equal to the greater of: two times the premium the employer would have paid, according to the employer's payroll records, based on the approved manual rates for every non-exempt employee who was not covered by workers' compensation insurance during any period of time within the two years prior to service of the stop-work order; or $1,000.[29]

If an employer fails to submit business records for the calculation of a penalty, or the employer's business records are not sufficient to determine an employer's payroll during the two years prior to issuance of a stop-work order, the law directs DWC to calculate a penalty for each employee, corporate officer, sole proprietor, or partner based upon the statewide average weekly wage[30] multiplied by 1.5.[31] The law provides two credits that may reduce a penalty assessed by DWC:

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[23] S. 440.107(3)(a)(c) and (f), and 440.107(7)(a), F.S.
[24] S. 440.107(3)(a)(b)(c) and (f) and 440.107(7)(a), F.S.
[25] S. 440.107(7)(a), F.S.
[26] *Id.*
[27] R. 69L-6.025, F.A.C.
[28] S. 440.107(7)(a), F.S.
[29] S. 440.107(7)(d)1, F.S
[30] Pursuant to s. 440.12(2)(b), F.S., the "statewide average weekly wage" means the average weekly wage paid by employers subject to the Florida Reemployment Assistance Program Law as reported to the Department of Economic Opportunity (DEO) for the four calendar quarters ending each June 30, which average weekly wage shall be determined by DEO on or before November 30 of each year and shall be used in determining the maximum weekly compensation rate with respect to injuries occurring in the calendar year immediately following.
[31] S. 440.107(7)(e), F.S.,

- An employer who has not previously been issued a stop-work order or order of penalty assessment, and has purchased insurance to comply with the workers' compensation law, may receive a credit equal to the initial payment of the estimated annual policy premium, so long as proof of coverage and payment of the initial premium is provided to DWC within 28 days of service of the stop-work order or penalty assessment.[32]
- An employer who has not previously been issued a stop-work order or order of penalty assessment may receive a 25 percent reduction in the assessed penalty if the employer provides business records to DWC within 10 business days of receipt of a written request for such records.[33]

DWC must reinstate the stop-work order and make the unpaid penalty immediately due if the employer fails to pay the penalty or enter into a payment agreement with the division within 28 days of the stop-work order.[34] Penalty orders are rarely calculated and served within 28 days of the stop-work order; thus, the law requires the employer to enter into a payment agreement before the employer knows the amount of the penalty.

Effect of the Bill

The bill makes changes to workers' compensation enforcement and compliance laws to increase the likelihood of compliance and make penalties better reflect the type of violation the law addresses.

Specifically, the law makes business records due 21 days after receipt of a written request from DWC (rather than 10 business days), and makes payment of the penalty, or execution of a payment agreement, due within 21 days of service of the penalty assessment (rather than 28 days after service of the stop-work order).

The two-year penalty period used for calculation of penalty would be reduced to one year for employers who have not previously been issued a stop-work order and order of penalty assessment. The penalty period would remain two years for employers that have previously been issued orders for non-compliance with workers' compensation law.

DWC would continue to post stop-work orders on its website for five years, but the requirement that the website be updated daily would be eliminated.

Credits that may reduce a penalty would be adjusted:

- The credit for the initial payment for workers' compensation insurance would be allowed so long as proof of payment is provided within 21 days of service of the penalty assessment, rather than 28 days of service of the stop-work order or penalty assessment.
- And the 25 percent penalty reduction for employers who have not previously been issued a stop-work order or order of penalty assessment would be allowed so long as the employer provides business records within 21 days of receipt of a written request for such records.

The bill creates one new credit: An employer who takes an online tutorial at a DWC worksite, and correctly answers 80 percent of the questions, may receive an additional 15 percent reduction in the penalty assessed by DWC.

The bill adds a requirement that an employer cannot enter into a payment agreement if the employer has previously been assessed a penalty that remains unpaid. This is addressed in rules promulgated by DWC but has not been required by statute.

DWC is funded by quarterly fees applied to net premiums and paid by insurance carriers and employers that self-insure to the Workers' Compensation Administration Trust Fund (WCATF). Fines

[32] S. 440.107 (d)1.a., F.S.
[33] S. 440.107(d)1.b., F.S.
[34] S. 440.107(7)(a), F.S.

and penalties levied by DWC are also paid to the WCATF. DWC anticipates minimal fiscal impact, because the collection rate may increase as the cost of assessed penalties decreases. Data provided by DWC shows that less than one-third of penalties issued by DWC between 2015 and 2019 were paid in full.

The proposed effective date for changes to s. 440.107, F.S., is January 1, 2023.

Medical Services

DWC is responsible for ensuring that employers provide medically necessary treatment, care, and attendance for injured workers. Healthcare providers must receive authorization from the insurer before providing treatment and submit treatment reports to the insurer. Insurers must reimburse healthcare providers based on statewide schedules of maximum reimbursement allowances developed by the DWC or an agreed-upon contract price. DWC mediates utilization and reimbursement disputes.[35]

In 1980, the Legislature delegated authority over maximum reimbursement allowances to a Three-Member-Panel which consists of the Insurance Commissioner (as a representative of the Chief Financial Officer) and two others appointed by the Governor and subject to confirmation by the Senate. Section 440.13(12)(a), F.S., states: "Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs."

The Medical Services Section within the DWC provides administrative support to the panel, which is statutorily charged with collecting data to evaluate the adequacy of the fee schedule, surveying healthcare providers to determine the availability and accessibility of healthcare, and surveying carriers to determine the impact of changes to the reimbursement schedule.[36] According to DWC, medical costs represent 67 percent of all workers' compensation costs in Florida.

Maximum reimbursements approved by the Three-Member Panel must be based on the following statutory requirements:

- For inpatient treatment, hospitals must be reimbursed 75 percent of the usual and customary charges;[37]
- For schedule surgeries, hospitals must be reimbursed 60 percent of the charges;[38]
- For physicians, reimbursement is 110 percent of the reimbursement allowed by Medicare for an office visit and 140 percent of the reimbursement allowed by Medicare for a surgical procedure.[39]
- For prescription medications, reimbursement is the wholesale price plus a $4.18 dispensing fee; but for repackaged or relabeled prescription medications, reimbursement is 112.5 percent of the average wholesale price plus an $8 dispensing fee.[40]

Healthcare providers cannot recover fees that are higher than those outlined in the schedule. This applies to treatment, care, and attendance provided by any hospital or other healthcare provider, ambulatory surgical center, work-hardening program, or pain program.[41] Florida courts have enforced fee schedule limits against healthcare providers who sought higher fees for their services.[42]

The law requires reimbursement to medical providers at either the agreed-upon contract price or the maximum reimbursement allowed in the appropriate schedule.

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[35] S. 440.13, F.S.
[36] S. 440.13(12)(e), F.S.
[37] S. 440.13(12)(a), F.S.
[38] S. 440.13(12)(b), F.S.
[39] *Id.*
[40] S. 440.13(12)(c), F.S
[41] S. 440.13(12)(d), F.S.
[42] *Sun Bank/South Florida, N.A. v. Baker*, 632 So. 2d 669 (Fla. 4th DCA 1994), cause dismissed, 639 So. 2d 982 (Fla. 1994); citing, *Easter Elevator Co. v. Hedman,* 290 So. 2d 56, 58 (Fla. 1974).

The Three-Member Panel adopts the schedules as an independent entity, but DWC relies on the schedules when rendering determinations in reimbursement disputes between healthcare providers and insurance carriers,[43] and when adopting fee schedules for services rendered by medical providers.[44] As a result, DWC adopts the maximum reimbursement schedules through rulemaking, and, when the cost of a schedule exceeds $1 million in the aggregate within a five-year period, the adopted rule is subject to legislative ratification.

The Administrative Procedures Act requires a statement of regulatory cost that includes an economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule;
2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within 5 years after the implementation of the rule; or
3. Is likely to increase regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within 5 years after the implementation of the rule.[45]

The law provides three exemptions to the ratification requirement. Legislative ratification does not apply to triennial updates of the Florida Building Code and Florida Fire Prevention Code, which are expressly authorized by statute, or when a state agency adopts federal standards or rules that are needed to receive federal funds or other benefits under federal law.[46]

Stakeholders in Florida's $4.3 billion workers' compensation marketplace are using a 2015 manual for ambulatory surgical centers (ratification was not required because the reimbursement schedule decreased overall costs by $3 million);[47] a 2016 manual for healthcare providers (ratification was not required because the reimbursement schedule decreased overall costs by 0.1 percent, or $4 million);[48] and a 2014 manual for hospitals (which did not require legislative ratification because the overall costs decreased by 1 percent of $29 million).[49]

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[43] S. 440.13(7), F.S.
[44] S. 440.13(13), F.S.
[45] S. 120.541(2)(a), F.S.
[46] S. 120.541(4), F.S.
[47] The Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers, found at r. 69L-7.100, F.A.C., was ratified by the Legislature and effective July 1, 2016. *See* Florida Administrative Code & Florida Administrative Register, *Rule 69L-7.100,* https://www.flrules.org/gateway/ruleno.asp?id=69L-7.100&Section=0 (last visited Feb. 14, 2022). Rulemaking proposals submitted to the Joint Administrative Procedures Committee (JAPC) in 2017 and 2018 were subsequently withdrawn. *See* Joint Administrative Procedures Committee, Florida Administrative Law Central Online Network, *Search for Rule 69L-7.100,* www.japc.state.fl.us/Pages/results.aspx?ruleNumber=69L-7.100&showAll=True&isTextSearch =False (last visited Feb. 14, 2022).
[48] The Florida Workers' Compensation Health Care Provider Reimbursement Manual, found at r. 69L-7.020, F.A.C., was effective January 1, 2016, and did not require legislative ratification. *See* Florida Administrative Code & Florida Administrative Register, *Rule 69L-7.020* 69L-7.020 : Florida Workers' Compensation Health Care Provider Reimbursement Manual - Florida Administrative Rules, Law, Code, Register - FAC, FAR, eRulemaking (flrules.org) (last visited Feb. 14, 2022). Rulemaking proposals submitted to JAPC in 2017 and 2018 were withdrawn. *See* Joint Administrative Procedures Committee, Florida Administrative Law Central Online Network, *Search for Rule 69L-7.020* https://www.japc.state.fl.us/Pages/ResultDetails.aspx?controlNumber=R183748&ruleNumber=69L-7.020 (last visited Feb. 14, 2022).
[49] The 2014 edition of the Florida Workers' Compensation Reimbursement Manual for Hospitals, found at r. 69L-7.501, F.A.C., did not require legislative ratification and was effective January 1, 2015. *See* Florida Administrative Code & Florida Administrative Register, *Rule 69L-7.501,* https://www.flrules.org/gateway/RuleNo.asp?title=WORKERS%27%27%20COMPENSATION%20MEDICAL%20REIMBURSEMENT%20AND%20UTILIZATION%20REVIEW&ID=69L-7.501 (last visited Jan. 12, 2022). Rulemaking proposals submitted to JAPC in 2016 and 2017 were withdrawn. *See* Joint Administrative Procedures Committee, Florida Administrative Law Central Online Network, *Search for Rule 69L-7.501*

A 2020 reimbursement manual for healthcare providers was adopted on October 22, 2021, but will not go into effect unless it is ratified by the Legislature. HB 1123 (2022) and SB 1274 (2022) request legislative ratification for r. 69L-7.020, F.A.C., which contains the reimbursement manual for workers' compensation healthcare providers.

The Legislature ratified the 2016 manual for healthcare providers, which increased the overall cost of the workers' compensation system by 1.8 percent, or $64 million.[50]

The Legislature declined to ratify reimbursement manuals for:

- Ambulatory surgical centers – the 2016 manual proposed an increase of 0.6 percent or $22 million; the 2017 manual proposed an increase of 1.1 percent or $40 million.[51]
- Healthcare providers – the 2017 manual proposed an increase of 0.1 percent, or $4 million.[52]
- Hospitals – the 2016 and 2017 manuals proposed increases of 2.2 percent, or $80 million.[53]

The Three-Member Panel issues a Biennial Report to the Legislature. The latest report – published in October 2019 – notes that there is an imbalance between reimbursements to hospitals and ambulatory surgical centers (which are higher than the national average) and reimbursements to doctors (which are lower than the national average).[54]

Effect of the Bill

The bill adds a section within the Administrative Procedures Act related to the statement of estimated regulatory costs to exempt schedules of maximum reimbursement allowances adopted by the three-member panel from legislative ratification.

The bill gives DWC explicit rulemaking authority to administer programs related to maximum reimbursement allowances established by the Three-Member panel.

And, if there is no agreed-upon contract price, the bill permits reimbursement at the lesser of the maximum reimbursement allowance in the appropriate schedule or the provider's billed charge.

Notice of Rights to the Employee

When an employee suffers an injury in the course of employment, the employee must notify the employer of the injury within 30 days, and the employer must report the injury to its insurance carrier within seven days of such notification. The employer also must mail the injured worker an informational brochure explaining the employee's rights, benefits, and obligations, and the process for accessing workers' compensation benefits.

Effect of the Bill

The bill permits delivery of the brochure by mail or email and changes the mailing deadline from three days to three business days.

Payroll Audits

www.japc.state.fl.us/Pages/results.aspx?ruleNumber=69L-7.501&showAll=True&isText_Search=False (last visited Feb. 14, 2022).

[50] Three Member Panel, 2019 Biennial Report, https://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Reports/2019-Biennial-Report.pdf, at 18 (last visited Feb. 14, 2022).

[51] *Id.*

[52] *Id.*

[53] *Id.*

[54] *Id.*, at 4.

The cost of workers' compensation insurance is based primarily upon an employer's payroll and the types of duties employees perform. Employers pay an estimated premium at the commencement of a workers' compensation policy and receive a refund or a bill for additional premium due at the end of the policy year, based on a payroll audit conducted by the insurance carrier.

The law requires payroll audits every other year for non-construction businesses. Businesses in the construction industry that are large enough to have an experience rating factor applied to their premium (meaning the policy is based on Florida premium of $5,750 in the prior year or $11,500 in the prior two years) must be audited annually and the audit must take place at the employer's worksite.[55]

The Office of Insurance Regulation (OIR) promulgates rules for payroll audits that are adopted by the Financial Services Commission. The rules require:

- An annual physical audit for policies with premium of $10,000 or more, regardless of governing classification;
- A physical audit for all new businesses that have construction classifications, regardless of premium; and
- An annual physical audit for renewal policies that have construction classifications if the estimated annual premium is $5,000 or more.[56]

Other audits may be conducted by mail. Audits conducted by telephone are not permitted in lieu of mail or physical audits.[57]

Effect of the Bill

The bill requires in-person audits for construction businesses only if the construction business has an estimated annual premium of $10,000 or more. Adoption of the bill would require changes to OIR rules that require physical audits for all new construction businesses and for construction businesses that have an annual premium of $5,000 or more.

Division of Funeral, Cemetery, and Consumer Services

The Division of Funeral, Cemetery, and Consumer Services has authority over pre-need burial contracts as well as funerals and burial services. The division licenses funeral directors, embalmers, and sales agents, and also conducts annual inspections of cemeteries and related facilities.[58]

Fees for Services

In general, the price charged for burial rights, merchandise, and burial services is left to the marketplace, but Florida law places limits on fees charged for certain related services, including the transfer of burial rights from one purchaser to another, which may not exceed $50.[59]

Effect of the Bill

The bill eliminates the $50 limit for fees paid for transferring burial rights, meaning the parties may agree to a negotiated rate. This change has no impact on DFS revenues.

Licensing of Embalmers

To be licensed as an embalmer in Florida, an applicant must:

[55] S. 440.381, F.S.
[56] R. 69O-189.003(b)1, F.A.C.
[57] R. 69O-189.003(b)3, F.A.C.
[58] Ch. 497, F.S.
[59] S. 497.277(2), F.S.

- Complete coursework in mortuary science;
- Complete coursework in communicable diseases;
- Complete a one-year internship under a licensed embalmer;
- Pass a written exam on the disposal of dead bodies;
- Pass a licensing exam;
- Submit fingerprints for a background check; and
- Submit an application and pay an application fee.[60]

For persons who are licensed to practice embalming in a state other than Florida and wish to be licensed by DFS, there are two options:

Option One: The applicant must have been licensed in a state where the requirements are substantially equivalent or more stringent than the requirements in Florida, and:
- Provide documentation showing coursework in communicable diseases;
- Pass a written exam on the disposal of dead bodies;
- Submit fingerprints for a background check; and
- Submit an application and pay an application fee.[61]

Option Two: The applicant must have:
- Practiced as a licensed embalmer for at least one year;
- Passed a state licensing exam during the 10 years prior to application;
- Provide documentation showing coursework in communicable diseases;
- Pass a written exam on the disposal of dead bodies;
- Submit fingerprints for a background check; and
- Submit an application and pay an application fee.[62]

Effect of the Bill

The bill simplifies requirements for persons who are licensed embalmers in another state and wish to be licensed in Florida under Option One. Instead of demonstrating current licensure in a state where the requirements are substantially equivalent or more stringent to those in Florida, the applicant must show that he or she has worked full-time as a licensed embalmer in another state for no less than five years.

Duties of Funeral Directors

Persons who sell and make financial arrangements for funeral services (including the disposition of human remains through embalming, cremation or other means) must be licensed as funeral directors and be affiliated with a licensed funeral establishment.[63]

Certain duties may only be performed by licensed funeral directors, including setting the time of services, acquiring the services of a clergy, obtaining vital information needed to file death certificates, and obtaining burial transit permits. The funeral director must directly or indirectly supervise any memorial service held prior to or within 72 hours of burial or cremation, if such memorial service is sold or arranged by a licensee.

Licensure is not required for persons who perform related services, like ordering flowers, furnishing price lists, and transporting bodies.[64]

Effect of the Bill

[60] S. 497.368, F.S.
[61] S. 497.369(b)1, F.S.
[62] S. 497.369(b)2, F.S.
[63] S. 497.372, F.S.
[64] *Id.*

The bill eliminates the requirement that only licensed funeral directors can set the time of services, acquire the services of a clergy, obtain vital information needed to file death certificates, and obtain burial transit permits. Additionally, the bill requires that the funeral director directly or indirectly supervise all memorial services sold or arranged by a licensee.

Licensing of Funeral Directors

To be licensed as a funeral director, an applicant must:

- Have an associates' degree in mortuary science or an associates' degree in another subject and also completed an approved course of study in mortuary science;
- Complete a course on communicable diseases;
- Complete a one-year internship under a licensed funeral director;
- Pass an exam on the disposal of dead bodies;
- Pass a licensing exam;
- Submit fingerprints for a background check; and
- Submit an application and pay an application fee.[65]

For persons who are licensed as a funeral director in a state other than Florida and wish to be licensed by DFS, there are two options:

Option One: The applicant must have been licensed in a state where the requirements are substantially equivalent or more stringent than the requirements in Florida, and:

- Complete coursework in communicable diseases;
- Pass a written exam on the disposal of dead bodies;
- Submit fingerprints for a background check;
- Submit an application and pay an application fee.[66]

Option Two: The applicant must have completed a licensing exam in another state that is substantially equivalent or more stringent than the licensing exam in Florida, and:

- Have an associates' degree in mortuary science or an associates' degree in another subject and also completed an approved course of study in mortuary science;
- Complete coursework in communicable diseases;
- Complete a one-year internship under a licensed funeral director;
- Pass a written exam on the disposal of dead bodies;
- Submit fingerprints for a background check; and
- Submit an application and pay an application fee.[67]

Effect of the Bill

The bill changes the licensing requirements for persons who are licensed funeral directors in other states and seek licensure in Florida. Applicants seeking licensure under Option One must show that they are in good standing in their state of licensure and that they have practiced as a licensed funeral director for no less than five years. Applicants seeking licensure under Option Two may be licensed if they hold a certificate from an accredited program in mortuary science but have not earned an associate's degree.

Division of State Fire Marshal

[65] S. 497.373, F.S.
[66] S. 497.374(b)1, F.S.
[67] S. 497.374(b)2, F.S.

The State Fire Marshal protects people and property throughout Florida and has authority to inspect buildings, structures, equipment, vehicles, and chemicals when there is reasonable cause to believe a violation of the Florida Fire Code has occurred.[68] The State Fire Marshal has two bureaus:

- The Bureau of Fire Prevention conducts safety inspections and reviews construction plans for all state-owned buildings, regulates fireworks and the fire sprinkler industry, inspects and licenses boilers, and certifies persons working in the fire suppression industry; and
- The Bureau of Firefighter Standards and Training approves curricula and training at the Florida State Fire College and certifies that fire service members meet industry standards. Persons may be certified as a volunteer firefighter, firefighter, or administrator of a fire service provider (*i.e.* fire chief, fire coordinator, fire director, or fire administrator).[69]

Boiler Inspections

The State Fire Marshal performs inspections to ensure the safety of boilers in public buildings.[70]

Effect of the Bill

The bill updates boiler inspection requirements to reflect current industry standards:

- Requires carbon monoxide detectors in public lodging establishments that use boilers;
- Deletes a $50 fee for a required exam that is now offered by the National Board of Boiler and Pressure Vessel Inspectors;
- Clarifies the type of information needed to obtain a boiler permit;
- Clarifies that a fee is required if an inspector is required to make a special trip to conduct a testing and verification inspection; and
- Adjusts compliance deadlines if an insurance company authorized to sell boiler and machinery insurance or an inspection agency accredited by the National Board of Boiler and Pressure Vessel Inspectors fails to perform required inspections in a timely manner or fails to correct a violation within 30 days.

Certification of Fire Inspectors

State and local fire inspectors may enter and inspect any buildings subject to fire safety laws.

To be certified as a fire inspector by the State Fire Marshal, a person must complete a 200-hour fire-safety inspector training program and pass a fire-safety inspector certification examination or demonstrate that he or she has had equivalent education and training in another state.[71] Additionally, the applicant must be in good physical condition, as determined by a medical examination, and have good moral character, as determined by a background investigation that includes the processing of fingerprints for a national criminal background check. The applicant must provide a sworn affidavit stating that he or she does not use tobacco.[72]

Certificates are valid for four years; a certified fire safety inspector must complete 54 hours of continuing education during the four-year period or pass an examination to renew the certificate.[73]

Effect of the Bill

[68] Chs. 554 and 633, F.S.
[69] Department of Financial Services, Division of State Fire Marshal, *What We Do*, https://myfloridacfo.com/Division/SFM/ (last visited Feb. 14, 2022).
[70] Department of Financial Services, Division of State Fire Marshal, *Boiler Safety Section*, https://www.myfloridacfo.com/Division/sfm/BFP/BoilerSafety/default.htm (last visited Feb. 14, 2022).
[71] S. 633.216, F.S.
[72] S. 633.412, F.S.
[73] S. 633.216(4), F.S.

The bill eliminates the option of passing an exam, rather than completing 54 hours of continuing education, to renew a fire safety certificate. Thus, the fire safety inspector certificate could only be renewed if the certificate-holder completes 54 hours of continuing education during the four-year certification period.

Certification of Firefighters and Commanders

To be certified as a firefighter, a person must complete a minimum standards course and exam established by the State Fire Marshal or show proof of equivalent training in another state, and pass an exam within one year of completing the minimum standards course. Additionally, the applicant must be in good physical condition, as determined by a medical examination, and have good moral character, as determined by a background investigation that includes the processing of fingerprints for a national criminal background check. The applicant also must provide a sworn affidavit stating that he or she does not use tobacco.[74]

To serve as an administrative and command head of a fire service provider, or to work in a position directing incident outcomes, a certified firefighter must earn a Special Certificate of Compliance. Such person must be active as a firefighter, maintain a valid fire service instructor certificate and teach at least 40 hours of instruction during a four-year period, and complete a Firefighter Retention Refresher Course prior to expiration of the four-year period.[75]

A certified firefighter who is employed as a fire chief, fire coordinator, fire director, or fire administrator must obtain a Special Certificate of Compliance within one year of beginning employment.[76]

Effect of the Bill

The bill deletes specific requirements for the Special Certificate of Compliance and instead provides that the requirements to obtain and renew the Special Certificate of Compliance shall be established by rule.

Renewing a Firefighter's Certificate

Firefighter certificates of compliance are valid for four years. To renew a certification, a firefighter must:

- Be active as a firefighter, meaning the certificate holder was employed as a firefighter or served as a volunteer firefighter for at least six months during a four-year period; or
- Hold a fire service instructor certificate and instruct at least 40 hours during a four-year period, or
- Complete a Firefighter Retention Refresher Course during the six months before the four-year period expires, or
- Retake and pass the Minimum Standards Course examination during the six months before the four-year period expires.[77]

Effect of the Bill

The bill provides that the special certificate of compliance has the same renewal requirements as a firefighter certificate of compliance. The bill also changes the definition of an active firefighter. Instead of requiring at least six months of active service during a four-year certification period, the bill provides the following definition:

> As used in this section, the term "active" means being employed as a firefighter or providing service as a volunteer firefighter as evidenced by the individual's

[74] S. 633.408(4), F.S.
[75] S. 633.408(6), F.S.
[76] *Id.*
[77] S. 633.414, F.S.

name appearing on a fire service provider's employment roster in the Florida State Fire College database or a letter by the fire service provider attesting to dates of employment.

Thus, to renew a certification, a firefighter would have to be included in a fire service provider's employment roster or provide a letter from a fire service provider attesting to the firefighter's dates of employment.

Additionally, the bill permits completion of the Firefighter Retention Refresher Course or passage of the Minimum Standards Course examination at any time prior to expiration of the certificate.

Firefighter Assistance Grants to Local Fire Departments

The Office of the State Fire Marshal also oversees the Firefighter Assistance Grant Program which awards grants to fire departments based on an annual needs assessment survey and restricts funding to training, personal protective equipment, breathing equipment, and fire engine pumper equipment.[78]

[78] S. 633.135, F.S. and R. 69A-37.502, F.A.C.

Effect of the Bill

The bill expands the types of equipment and tools that can be purchased with funds provided by the Firefighter Assistance Grant Program. This allows the use of state grant funds for equipment and tools that improve fire safety and rescue capabilities, and for protective clothing and equipment that complies with standards of the National Fire Protection Association.

Division of Insurance Agent and Agency Services

The DFS Division of Insurance Agent and Agency Services is responsible for the licensing and regulation of insurance agents, adjusters, insurance agencies, as well as related personnel and business entities.[79]

Service of Process

Every insurer licensed to do business in Florida must appoint the Chief Financial Officer (CFO) as agent for service of legal process in any civil action or proceeding in Florida and provide the name and e-mail address of the person to whom process received by the CFO should be forwarded.[80]

The CFO also serves as the agent for service of legal process against any nonresident agent,[81] reinsurance intermediary,[82] nonresident health insurance agent,[83] nonresident independent or public adjuster,[84] surplus lines insurer,[85] unauthorized insurer,[86] and viatical settlement provider.[87]

Florida law requires that process be served upon a state officer, and then forwarded to the regulated entity, to ensure that the regulator is aware of lawsuits served upon regulated entities. This is a standard practice that is recommended by the National Association of Insurance Commissioners and used in many states.[88]

Effect of the Bill

The bill amends existing law, to clearly state that service of process is valid and binding on the insurer on the date the insurer is notified that such information is available on a secure online portal. Additionally, the bill states that service of process submitted through the secure online portal is the sole method of service of process upon an insurer authorized to do business in Florida.

Unaffiliated Insurance Agents Adjusting Claims

Unaffiliated insurance agents are licensed agents who work as independent consultants, analyzing policies and providing advice or recommendations on insurance products for a fee. Such persons may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agent contracted with or employing insurer-appointed insurance agents.[89]

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[79] Ch. 626, parts I, II, III, IV, V, VI, VIII, IX, and XIII, F.S.
[80] S. 624.423(3), F.S.
[81] S. 626.742, F.S.
[82] S. 626.7492, F.S.
[83] S. 626.836, F.S.
[84] S. 626.8736, F.S.
[85] S. 626.937, F.S.
[86] S. 626.909, F.S.
[87] S. 626.9912, F.S.
[88] *See* National Association of Insurance Commissioners, *Company Licensing Best Practices Handbook 2022, at 71* https://content.naic.org/sites/default/files/publication-clh-op-licensing-practices-handbook.pdf (last visited Feb. 14, 2022); and National Association of Insurance Commissioners, *Uniform Consent to Service of Process/Form 12*, https://www.naic.org/documents/industry_ucaa_form12.pdf (last visited Feb. 14, 2022).
[89] S. 626.015(20), F.S.

Insurance agents who are licensed to sell and service insurance must be appointed by an authorized insurer who sells the type of insurance the agent is authorized to sell.[90]

The law was intended to prohibit conflicts of interest that would allow unaffiliated agents to compel payments for referrals from affiliated agents or companies.[91]

Effect of the Bill

The bill permits an insurance professional who holds both unaffiliated insurance agent license and an adjuster license to obtain an adjuster appointment while continuing his or her work as an independent consultant in the insurance industry. After a catastrophic storm, for example, the adjuster could be appointed to adjust claims for an insurer without surrendering his or her unaffiliated agent appointments.

Specifically, the bill amends the definition of unaffiliated insurance agent to state that a licensed adjuster who is also an unaffiliated insurance agent may obtain an adjuster appointment while simultaneously holding an unaffiliated appointment on his or her agent license.

Additionally, the bill amends the scope of the licensing law for insurance agents, to permit unaffiliated agents who also hold an adjuster license to obtain an adjuster appointment and be compensated for adjusting claims while maintaining his or her license as an unaffiliated insurance agent.

Fingerprints for Background Checks

The Florida Insurance Code authorizes DFS to investigate any applicant or licensee, and further states that licensing statutes which require an evaluation of an applicant's character or fitness must include the submission of fingerprints for a national criminal records check.[92] Applicants and licensees submit fingerprints to FDLE, which forwards the fingerprints to the FBI for a national background check.[93]

National background checks conducted for non-criminal purposes are subject to Public Law 92-544, which was enacted by Congress in 1972 and permits states to receive criminal history records from the FBI so long as the state has enacted a law that requires the submission of fingerprints for appropriate licensing and employment purposes.

The FBI processes fingerprints only if the criteria established by the U.S. Department of Justice has been satisfied. To satisfy federal law, a state licensing statute must identify the specific categories of licenses that require the submission of fingerprints as part of an application and expressly state that the applicant's fingerprints will be submitted to the FBI or submitted for a national criminal records background check.

Effect of the Bill

The bill makes technical amendments to licensing laws to ensure compliance with federal law and continuation of FBI background checks for agents and agencies seeking licensure in Florida.

Seven of the laws being amended set forth the application requirements for persons seeking licensure:

- As an insurance agent, customer representative, adjuster, service representative, or reinsurance intermediary;[94]
- For an insurance agency;[95]

[90] S. 626.112, F.S.
[91] S. 626.311(6), F.S.
[92] S. 626.201, F.S.
[93] S. 624.34, F.S.
[94] S. 626.171, F.S.
[95] S. 626.172, F.S.

- As a limited lines licensee to transact motor vehicle physical damage and mechanical breakdown insurance; industrial fire or burglary insurance; travel insurance; motor vehicle rental insurance; credit insurance; crop hail and multiple-peril crop insurance; in-transit and storage personal property insurance; and portable electronics insurance;[96]
- As a nonresident all-lines adjustor;[97]
- As an insurance navigator;[98]
- As a bail bond agent;[99] or
- For temporary licensure (pending examination) as a limited surety agent or professional bail bond agent.[100]

Four of the laws being amended:

- Provide authority to investigate the character, experience, background, and fitness of licensees and applicants seeking licensure, and to require the submission of fingerprints as part of such investigation;[101]
- Require the submission of fingerprints if DFS has reason to believe a licensee has been convicted of a crime; is the subject of an acquisition; or employs or appoints a new partner, officer, or director;[102]
- Authorize investigations of allegations of improper conduct by licensed persons and entities (adjustors, agents, agencies, insurers) and related professionals (mediators and continuing education providers);[103] and
- Identify portions of the Insurance Code that are applicable to title agents and agencies.[104]

Authority to Investigate Licensees

Applicants seeking licensure by DFS as an insurance agent, insurance agency, or bail bond agent are subject to a background investigation to determine the applicant's character, experience, background, and fitness for the desired license.[105]

The application process includes the submission of fingerprints for a national criminal background check and a review of any prior violations of the Insurance Code. DFS may inquire about any matter that is reasonably related to the character and fitness of a licensee upon application for a license, renewal of a license, or reinstatement of a license.[106]

DFS has authority expressly conferred upon it and reasonably implied from the provisions of the Insurance Code.[107] For investigations, the law provides the following express authority:

- DFS may investigate any matter to determine whether a violation of the Insurance Code has occurred, or to secure information that may be useful in the lawful administration of the Insurance Code.[108] This includes the authority to investigate the accounts, records, documents, and transactions of licensees.[109]
- DFS may investigate the conduct of any licensee, upon its own motion or upon receiving a written complaint signed by an interested person, so long as there is reasonable cause to believe that a

[96] S. 626.321, F.S.
[97] S. 626.8734, F.S.
[98] S. 626.9953, F.S
[99] S. 648.34, F.S.
[100] S. 648.355, F.S.
[101] S. 626.201, F.S.
[102] S. 626.202, F.S.
[103] S. 626.601, F.S.
[104] S. 626.8411, F.S.
[105] Ss. 626.201 and 648.27 F.S.
[106] Ss. 626.201, 648.27, 648.34 and 648.355 F.S.
[107] S. 624.401(2), F.S.
[108] S. 624.307(3), F.S.
[109] S. 624.317, F.S.

licensee has violated a provision of the Insurance Code.[110] A licensee that fails to respond to a written request for documents or other information within 20 days of receipt of such request may be subject to administrative penalties of up to $2,500.[111]
- Enforcement powers granted to DFS – including authority to issue orders to cease and desist, administrative complaints to suspend or revoke a license and/or remove affiliated parties – apply to licensees and their affiliated parties, and to unlicensed persons who engage in activities for which licensure is required.[112]

Effect of the Bill

The bill provides explicit authority to investigate licensees for violations of the Insurance Code even if a license expires, is not renewed, or is surrendered. The bill also states that the withdrawal of a complaint does not affect DFS's authority to investigate or take administrative action against a licensee or former licensee. An alleged violation must have occurred while the licensee held an active license.

Express authority is added to s. 626.201, F.S., which permits DFS to investigate applicants seeking licensure or appointment in Florida. Identical express authority is added to s. 648.46, F.S., which permits DFS to take disciplinary actions against licensed bail bond agents.

Closure of an Insurance Agency

Current law does not address the closure of an insurance agency. Some insurance agencies have abandoned their offices and records, forcing DFS to work with landlords, retrieve records, and complete unfinished work, like remitting checks to insurers and managing applications that were not filed.

Effect of the Bill

The bill establishes instructions for closure in the event that an insurance agency stops doing business for a period exceeding 31 days. Within 30 days of the date the insurance agency stops doing business, the insurance agency must:

- Notify DFS of its closure and cancel its agency license;
- Notify insurers, policyholders, and premium finance companies of the closure and provide information about the agency or agent who has taken over the book of business; and
- Ensure that all funds held in a fiduciary capacity are properly distributed to the rightful owner(s).

Failure to provide the required notifications could result in an administrative fine up to $10,000 per violation and suspension or revocation of the agency license.

All-Lines Adjusters

An all-lines adjuster is a person who determines the value of a claim, loss, or damage payable under a property or casualty insurance contract and tries to negotiate a settlement of such claim, loss, or damage.[113]

Such persons must pass a written exam recognized by DFS to be licensed unless they qualify for an exemption.[114] Examination is not required for persons who earn an appropriate designation from a regionally accredited postsecondary institution in Florida; or certification from a recognized professional association whose curriculum has been approved by DFS, like the Insurance Institute of America or the Claims and Litigation Management Alliance.[115]

[110] S. 626.601, F.S.
[111] S. 624.307 (10)(b), F.S.
[112] Ss. 624.310(2), 624.319(3)-(4) and (8), and 626.016, F.S.
[113] S. 626.8548, F.S.
[114] Ss. 626.211 and 626.292, F.S.
[115] S. 626.221(2)(j), F.S.

Effect of the Bill

The bill adds the Certified All Lines Adjuster certificate from Kaplan Financial Education to a list of recognized programs that exempt an applicant from the examination requirement.

Title Agents and Agencies

Title insurance insures property owners against claims related to the ownership of an insured property, liability for back taxes, and liens or other encumbrances.[116]

Effect of the Bill

The bill includes clarifying amendments in six sections related to the sale of title insurance:

- A title insurer may not sell policies unless both the agent and the agency are appointed by the insurer;[117]
- Pre-licensing classes for title insurance agents may be taught online as well as in a classroom;[118]
- Both title agents and title agencies are required to have a separate appointment for each insurer that has appointed the agent or agency;[119]
- Appointments for title agents and title agencies are renewable every two years;[120]
- Notice requirements related to the termination of an appointment apply to both title agents and title agencies;[121]
- Sanctions related to the suspension or revocation of a license apply to both title agents and title agencies.[122]

Public Adjusters

Public adjusters file and negotiate insurance claims on behalf of a policyholder, for a fee. Florida law limits reimbursement to a public adjuster to no more than 20 percent of a claim payment, or no more than 10 percent of a payment for a claim that arose from an event that was declared a state of emergency. The law additionally prohibits a public adjuster from offering any gratuity worth more than $25, or any loan or advance to a client in return for representation in an insurance claim. Further, public adjusters may not offer residential property owners any type of gratuity or rebate in return for permitting a roof inspection, or making an insurance claim for roof damage.[123]

Persons seeking licensure as a public adjuster must have been licensed and appointed as a public adjuster apprentice, independent adjuster, or company employee adjuster for at least six months prior to application.[124]

Persons seeking licensure as a public adjuster apprentice must be licensed as an all-lines adjuster and must post a $50,000 bond during his or her appointment to a public adjusting firm and for a year following termination of such appointment.[125]

Nonresident public adjusters may be licensed to do business in Florida if they satisfy the application requirements, including passing a written exam, and demonstrating that they have been licensed and employed as a public adjuster or insurance company adjuster or independent adjuster in a state other

[116] Ch. 626, part V, F.S.
[117] S. 626.8412, F.S.
[118] S. 626.8417, F.S.
[119] S. 626.8421, F.S.
[120] S. 626.843, F.S.
[121] S. 626.8433, F.S.
[122] S. 626.8447, F.S.
[123] S. 626.854, F.S.
[124] S. 626.865(1)(e), F.S.
[125] S. 626.8651(1), F.S.

than Florida during the six months prior to application. Additionally, the applicant must post a $50,000 bond that may not be terminated without 30 days written notice to DFS.[126]

Effect of the Bill

The bill establishes requirements for public adjusting firms and their apprentices, and makes technical changes to related laws:

- Most homeowners, condo, and renter insurance include coverage for additional living expenses a policyholder incurs if the policyholder cannot live in his or her home due to a covered loss. The bill prohibits compensation to a public adjuster based on amounts attributable to additional living expenses unless the public adjuster and the policyholder agree to such compensation in a separate agreement that includes the following disclosure: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."
- Creates a new provision which states that compensation paid to a public adjuster may not be increased based on a claim being resolved by litigation.
- Requires that adjusting firms seeking licensure include the name and license number of the designated primary adjuster who is responsible for adjusters at each business location, and requires fingerprints for background checks of the owner(s) as well as corporate officers and directors;
- Requires that an applicant for licensure as a public adjuster must have been licensed and appointed in Florida as a non-resident public adjuster, or as an all-lines adjuster, on a continual basis, during the six months prior to application;
- Amends the definition of "public adjuster apprentice" to state that such apprentice must be employed by a public adjusting firm, rather than employed by a public adjuster;
- Requires that a $50,000 bond posted by each public adjuster apprentice remain in effect for one year after termination of the public adjuster apprentice license, and requires that the public adjusting firm provide DFS with notice of the primary adjuster who responsible for the supervision of all adjusters at the firm's location;
- Requires that the $50,000 bond posted by each nonresident public adjuster must remain in effect for one year following the expiration or termination of the public adjuster license, and also makes changes to comply with federal law related to the use of fingerprints in national background checks, discussed above.

[126] S. 626.8732, F.S.

The Florida Patient's Compensation Fund

Florida experienced a medical malpractice insurance crisis in the mid-1970s when 20 professional liability insurers responded to rising medical malpractice awards and settlements by cancelling coverage of Florida physicians and withdrawing from the market. Companies remaining in the market increased rates dramatically, with the leading insurer at the time requesting and receiving approval for a 100 percent increase in premium rates paid by doctors.[127]

The Legislature responded by enacting The Medical Malpractice Reform Act of 1975, which, among other things, created the Florida Patient's Compensation Fund (Fund) to limit the risk exposure of participating health care providers. Participants had to show proof of $100,000 coverage from an insurer or self-insurance plan and deposit an annual fee into the Fund. The Fund paid the excess over $100,000 for any judgment or settlement against a member. The Fund was capped at $25 million and could not pay more than $1 million on a given claim in any single year.[128]

The Fund attracted providers and ran smoothly for a few years but was not actuarially sound, so substantial losses began to accumulate.[129] In 1982, the Fund assessed its members to cover deficits, hospitals dropped out because most of the claims were against physicians, and the Fund was unable to continue operating.[130] During its short tenure, the Fund received $72 million in membership fees and $280 million in assessments; closed 4,595 claims and paid more than $311 million to victims of medical malpractice.[131]

Initially, the Fund was scheduled for sunset in 1991 and repeal in 1995; however, during a special session in 1991 the Legislature revived and readopted all statutes that had been subject to future repeal, including s. 766.105, F.S.[132] As a result, the law has not been subject to sunset review even though the Fund has not accepted new members since June 30, 1983.[133]

All private hospitals were required to join the Fund or demonstrate financial responsibility of at least $10,000 per bed through self-insurance, by posting a bond or establishing an escrow account, or by purchasing professional liability insurance. Compliance was delegated to the Agency for Health Care Administration (AHCA), which required proof of membership or exemption for licensing and license renewal. The requirement that AHCA determine compliance with s. 766.105(2)(d)2, F.S., remains, so hospitals must demonstrate that they are exempt from participation in the Fund by providing proof of financial responsibility through one of the following:

- A bond posted in the amount equivalent to $10,000 per claim for each hospital bed, not to exceed a $2,500,000 annual aggregate.
- An escrow account in an amount equivalent to $10,000 per claim for each hospital bed, not to exceed a $2,500,000 annual aggregate to the satisfaction of AHCA.

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[127] U.S. General Accounting Office, *Medical Malpractice Case Study on Florida*, *Report to Congressional Requestors*, December 1986, at 8, www.gao.gov/assets/hrd-87-21s-3.pdf, (last visited Feb. 14, 2022); and Florida House of Representatives Committee on Insurance, *The Florida Patient's Compensation Fund: Status Report on Terminating Activities of the Fund*, December 10, 1994, at 1-7.

[128] S. 765,105, F.S.

[129] *The Florida Patient's Compensation Fund: Status Report on Terminating Activities of the Fund*, supra note 121, at 7. Section 766.105(3)(h), F.S., provides that the Fund must determine whether it has minimum membership levels to offer coverage one week prior to the beginning of each fiscal year. The minimum membership thresholds of $5 million for non-hospital providers and $12.5 million for hospitals could not be met when hospitals stopped participating.

[130] *Medical Malpractice Case Study on Florida*, *Report to Congressional Requestors*, supra note 121, at 10.

[131] *The Florida Patient's Compensation Fund: Status Report on Terminating Activities of the Fund*, *supra* note 121, at 17-18.

[132] *Id.*, at 1.

[133] Office of Insurance Regulation, *Target Market Conduct Final Examination Report of the Florida Patient's Compensation Fund*, April 25, 2014, at 4, lamainrouge.net/siteDocuments/FLPatientsCompensationFund 04252014.pdf (last visited Feb. 14, 2022).

- Professional liability coverage in an amount equivalent to $10,000 or more per claim for each hospital bed, from a private insurer, the Joint Underwriting Association; or through a plan of self-insurance as provided in s. 627.357, F.S., not to exceed a $2,500,000 annual aggregate. Include proof of funding any self-insurance retention.
- Sovereign immunity. State Agencies, subdivisions or instrumentalities of the state. No additional documentation necessary if previously documented.[134]

The Fund is an independent, tax-exempt entity created by the state, but OIR has supervisory authority over the Fund's Plan of Operation and any changes to the Plan of Operation, including repeal.[135]

The law requires that OIR review any request for assessments of plan participants or refunds of plan participants, and further states that the Fund is required to furnish audited financial reports annually, upon request, to any fund participant and to the OIR and the Joint Legislative Auditing Committee.[136]

The following provides a short history of interactions between the Fund and OIR:

- OIR Approved the Fund's Plan of Operations in 1979;[137]
- OIR approved member fees in 1981, 1985, 1986 and 1989;[138]
- OIR ordered 12 assessments of Fund members and approved 11 refunds between 1982 and 2004;[139]
- In 1994, the Fund's general manager advised the House of Representatives that it would take about six or seven years to wind down the Fund's operations, which, at that time, included 69 open claims that were the subject of litigation;[140]
- The Fund rejected a proposal to merge with the Florida Medical Malpractice Joint Underwriting Association in 2008, but promised to reduce its budget by 20 percent in 2009 and an additional 10 percent in 2010.[141]
  - In response, OIR noted that operating expenses of $325,950 (including $111,000 salary to the general manager, at that time the Fund's only employee) were not prudent because the Fund had not written any new policies in 20 years. OIR suggested that the Fund meet once per year, via conference call, and outsource the duties of the general manager.[142]
  - In reply, the Fund provided a legal opinion stating that its Articles of Association require a general manager and that the Fund benefited from the general manager's knowledge of the Fund's history and activities.[143]
- A 2014 market conduct exam conducted by OIR noted that the Fund's operating expenses were $330,950 in 2010, $338,700 in 2011, and $359,700 in 2012.
  - The increase in operating costs was attributed to a "catastrophic computer failure" that caused the Fund to lose all digital records related to refunds. A vendor used microfilm records to restore the Fund's digital system and the Fund installed automated backup programs on its one desktop and two laptop computers.[144]
- By spring 2016, the Fund had negotiated a $3,334,000 deal with Berkshire Hathaway, which was willing to accept liability for 10 annuities that were owned by the Fund and did not have a

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[134] Agency for Health Care Administration, *Health Quality Assurance Licensure Form3130-8001s, Hospital*, at 11, https://Ahca.myflorida.com/MCHQ/HQALicensureForms (last visited Feb. 14, 2022)
[135] S. 766.105(3)(c), F.S.
[136] S. 766.105(3)(e)4, F.S
[137] Email from Grant Phillips, Director of Legislative Affairs for the Office of Insurance Regulation, *FPCF Order Timeline*, at 26 (Nov. 16, 2021).
[138] *Id*.
[139] *Target Market Conduct Final Examination Report of the Florida Patient's Compensation Fund, supra* note 127, at 7.
[140] *Id.*, at 20-21.
[141] Correspondence from Stanley Marguilies, M.D., chairman of the Board of Governors of the Florida Patient's Compensation Fund to Insurance Commissioner Kevin McCarty, June 13, 2008.
[142] Correspondence from Insurance Commissioner Kevin McCarty to Stanley Marguilies, M.D., chairman of the Board of Governors of the Florida Patient's Compensation Fund, Aug. 14, 2008.
[143] Legal opinion of Zollie M. Maynard, Esq., general counsel for Florida Patient's Compensation Fund, Sept. 18, 2008.
[144] *Target Market Conduct Final Examination Report of the Florida Patient's Compensation Fund, supra* note 127, at 6-8.

unified qualified assignment that would have released the Fund from liability in the event an insurer paying annuitants through a structured settlement became insolvent. A transfer to Berkshire Hathaway would have allowed the Fund to issue refunds to former members and wind down its activities. The Fund rejected the deal when final contract language gave OIR contractual control over most of the Fund's activities.[145]

- In the fall of 2016, the Fund submitted a request to OIR to issue refunds and wind the Fund down, but was unable to persuade OIR that it did not have any contingent liability for some of the annuities that were issued by insurance companies, and continue to be serviced by those insurance companies, as part of structured settlements negotiated by the Fund decades earlier.[146]
- In 2019, the Fund obtained releases of contingent liability from five annuitants whose remaining payments exceed the $300,000 limit of the Florida Life and Health Insurance Guaranty Association (FLHIGA), which would be responsible for claims in the event an insurer servicing the annuities became insolvent.[147]
- In 2021, an actuarial report conducted for the Fund found the Fund retains an ownership interest in 15 annuities that have an aggregate future value of $12,680,687. In the event of an insurer insolvency, many of the annuities would be covered by FLHIGA, therefore the actuary concluded that the Fund's exposure to contingent liability is $2,403,590. About half of the remaining annuitants were children when their parents entered into structured settlements with the Fund; therefore, some of the remaining annuities may continue for another 40 years.[148]

Audited financial reports state that the Fund had total assets of $15,135,541 at the close of 2020; this includes $14,888,634 held in investment accounts.[149] Thus, it appears that the Fund has enough assets to cover its liabilities.

Operating costs have increased in recent years, because the Board of Governors approved the general manager's request for an assistant in 2015 and approved 4 percent annual salary increases for the two Fund employees for 2017, 2018, 2019 and 2020.[150] The Fund contributes to an employee pension plan and pays for legal counsel, accounting and auditing, rent and utilities, travel, and insurance.[151]

The following comes from financial statements the Fund shared with its governing board and OIR:

	2016	2017	2018	2019	2020
Salaries	$181,754.00	$213,668.00	$221,600.00	$229,764.00	$240,417.00
Pension Plan	$59,684.00	$52,303.00	$55,677.00	$54,424.00	$45,891.00
Rent, Utilities, and Janitorial	$20,336.00	$16,704.00	$16,158.00	$16,758.00	$12,841.00

[145] Correspondence from OIR Assistant General Counsel Alyssa S. Lathrop to General Manager of the Florida Patient's Compensation Fund Charles J. Portrero, Nov. 17, 2016; and Minutes of the May 18, 2017, meeting of the Florida Patient's Compensation Fund Operations Committee.

[146] Correspondence from OIR Assistant General Counsel Alyssa S. Lathrop to General Manager of the Florida Patient's Compensation Fund Charles J. Portrero, Nov. 17, 2016; and Correspondence from David Yon, Esq., on behalf of the Florida Patient's Compensation Fund, to Susan Herendeen, Esq., of the Insurance and Banking Subcommittee of the Florida House of Representatives, Dec. 22. 2021.

[147] Correspondence from David Yon, Esq., on behalf of the Florida Patient's Compensation Fund, to Jane Nelson of the Office of Insurance Regulation, Aug. 4, 2021.

[148] Jack Swisher, ACAS, MAAA, Florida Patient's Compensation Fund Annuity Insolvency Analysis, June 28, 2021, at 4-5; and Correspondence from David Yon, Esq., on behalf of the Florida Patient's Compensation Fund, to Jane Nelson of the Office of Insurance Regulation, Aug. 4, 2021.

[149] Carr Riggs & Ingram CPAs and Advisors, *Florida Patient's Compensation Fund Financial Statements*, Dec. 31, 2020, at 4.

[150] Memo to the Florida Patient's Compensation Fund Operating Committee from General Manager Charles Portrero, Nov. 19, 2018.

[151] OIR monitors meetings of the Florida Patient's Compensation Fund by telephone and receives copies of meeting materials the Fund provides to its Board of Governors. OIR provided copies of meeting materials from 2011-2020 to the Insurance and Banking Subcommittee.

General Counsel	$3,500.00	$42,195.00	$36,992.00	$35,339.00	$37,065.00
Accounting and Audit	$73,513.00	$58,294.00	$52,578.00	$52,821.00	$39,126.00
Travel & Expenses (staff)	$1,463.00	$4,087.00	$3,841.00	$1,962.00	$4,404.00
Travel & Expenses (board)	$7,124.00	$20,327.00	$17,627.00	$21,905.00	$22,751.00

Effect of the Bill

The bill provides for a two-year wind down of the Fund that will be supervised by the Chief Financial Officer through the DFS Division of Rehabilitation and Liquidation. DFS must dissolve the Fund on or before December 31, 2023; ensure that the Fund has met its obligations to former members and creditors; and make a final accounting for the finances of the Fund. DFS must attempt to return any property held by the Fund to its owners; property that cannot be returned to the owner will be transferred to DFS's Division of Unclaimed Property. Any remaining money or assets of the Fund will be transferred to the General Revenue Fund.

The bill also moves financial responsibility requirements for hospitals, which are part of s. 766.105, F.S., to a new section within ch. 395, F.S., and makes conforming changes to retain the definition of "health care provider" in laws that are cross referenced with s. 766.105, F.S.

The law[152] that created the Fund will be repealed on January 1, 2024.

Effective Date

The bill shall be effective upon becoming a law, except as otherwise provided. The effective date for the educational tutorial that will be part of the workers' compensation exemption application process is January 1, 2023. The effective date changes to reduce financial penalties for non-compliance with workers' compensation law is October 1, 2022.

B. SECTION DIRECTORY:

Section 1. Repeals s. 17.0315, F.S., Financial and cash management system; task force.

Section 2. Amends s. 48.151, Service on statutory agents for certain persons.

Section 3. Amends s. 110.123, F.S., State Group Insurance Program.

Section 4. Amends s. 110.131, F.S., Other-personal-services employment.

Section 5. Amends s. 120.541, F.S., Statement of estimated regulatory costs.

Section 6. Amends s. 215.34, F.S., State funds; noncollectible items; procedure.

Section 7. Amends s. 215.93, F.S., Florida Financial Management Information System.

Section 8. Amends s. 215.94, F.S., Designation, duties, and responsibilities of functional owners.

Section 9. Amends s. 216.102, F.S., Filing of financial information; handling by Chief Financial Officer; penalty for noncompliance.

Section 10. Amends s. 218.32, F.S., Annual financial reports; local government entities.

Section 11. Creates s. 395.061, F.S., Professional liability coverage.

Section 12. Amends s. 414.40, F.S., Stop Inmate Fraud Program established; guidelines.

Section 13. Amends s. 440.02, F.S., Definitions.

[152] S. 766.105, F.S.

Section 14. Amends s. 440.05, F.S., Election of exemption; revocation of election; notice; certification.

Section 15. Amends s. 440.107, F.S., Department powers to enforce employer compliance with coverage requirements.

Section 16. Amends s. 440.13, F.S., Medical services and supplies; penalty for violations; limitations.

Section 17. Amends s. 440.185, F.S., Notice of injury or death; reports; penalties for violations.

Section 18. Amends s. 440.381, F.S., Application for coverage; reporting payroll; payroll audit procedures; penalties.

Section 19. Amends s. 497.277, F.S., Other charges.

Section 20. Amends s. 497.369, F.S., Embalmers; licensure as an embalmer by endorsement; licensure of a temporary embalmer.

Section 21. Amends s. 497.372, F.S., Funeral directing; conduct constituting practice of funeral directing.

Section 22. Amends s. 497.374, F.S., Funeral directing; licensure as a funeral director by endorsement; licensure of a temporary funeral director.

Section 23. Amends s. 554.108, F.S., Inspection.

Section 24. Amends s. 544.111, F.S., Fees.

Section 25. Amends s. 554.114, F.S., Prohibitions; penalties.

Section 26. Amends s. 624.307, F.S., General powers; duties.

Section 27. Amends s. 624.422, F.S., Service of process; appointment of Chief Financial Officer as process agent.

Section 28. Amends s. 624.423, F.S. Serving Process.

Section 29. Amends s. 624.610, F.S., Reinsurance.

Section 30. Amends s. 626.015, F.S., Definitions.

Sections 31, 32, 35, 39, 40, 53, 57, 62, and 63. Amend fingerprint requirements for background checks that are part of the licensing processes detailed in ss. 626.171, 626.172, 626.202, 626.601, 626.8411, 626.8734, 626.9953, 648.34, and 648.355, F.S., Amendments make it clear that the authority for the use of fingerprints in background checks comes from s. 626.201, F.S.

Section 33. Creates s. 626.173, F.S., Insurance agency closure; cancellation of licenses.

Section 34. Amends s. 626.201, F.S., Investigation.

Section 36. Amends s. 626.221, F.S., Examination requirements; exemptions.

Section 37. Amends s. 626.311, F.S., Scope of license.

Section 38. Amends s. 626.321, F.S., Limited licenses and registration.

Section 41. Amends s. 626.8412, F.S., License and appointments required.

Section 42. Amends s. 626.8417, F.S., Title insurance agent licensure; exemptions.

Section 43. Amends s. 626.8421, F.S., Number of appointments permitted or required.

Section 44. Amends s. 626.843, F.S., Renewal; continuation; reinstatement; termination of title insurance agent's appointment.

Section 45. Amends s. 626.8433, F.S., Filing of reasons for terminating appointment of title insurance agents; confidential information.

Section 46. Amends s. 626.8447, F.S., Effect of suspension or revocation upon other licensees, appointees.

Section 47. Amends s. 626.854, F.S., "Public adjuster" defined; prohibitions.

Section 48. Amends s. 626.8561, F.S., "Public adjuster apprentice" defined.

Section 49. Amends s. 626.865, F.S., Public adjuster qualifications, bond.

Section 50. Amends s. 626.8651, F.S., Public adjuster apprentice appointment; qualifications.

Section 51. Amends s. 626.8696, F.S., Application for adjusting firm license.

Section 52. Amends s. 626.8732, F.S., Nonresident public adjuster's qualifications, bond.

Section 54. Amends s. 626.906, F.S., Acts constituting Chief Financial Officer as process agent.

Section 55. Amends s. 626.912, F.S., Exemptions from ss. 626.904-626.911.

Section 56. Amends s. 626.937, F.S., Actions against insurer; service of process.

Section 58. Amends s. 633.135, F.S., Firefighter Assistant Grant Program.

Section 59. Amends s. 633.216, F.S., Inspection of Buildings and Equipment; orders; firesafety inspection training requirements; certification; disciplinary action.

Section 60. Amends s. 633.408, F.S., Firefighter and volunteer firefighter training and certification.

Section 61. Amends s. 633.414, F.S., Retention of firefighter and volunteer firefighter certifications.

Section 64. Amends s. 648.46, F.S., Procedure for disciplinary action against licensees.

Section 65. Amends s. 766.105, F.S., Florida Patient's Compensation Fund.

Section 66: Amends s. 945.6041, F.S., Inmate Medical Services.

Section 67: Amends s. 985.6441, F.S., Health care services.

Section 68. Provides that the transfer of the Stop Inmate Fraud Program from DFS to DEO shall take place in accordance with s. 20.06, F.S.

Section 69. Provides that the bill shall be effective July 1, 2022, except as otherwise provided. The bill proposes an effective date of January 1, 2023, for Sections 14 and 15.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There is an indeterminate, but likely insignificant, fiscal impact on state revenues. DWC anticipates a minimal impact from changes to the workers' compensation fines and penalties assessed, because the collection rate may increase as the cost of assessed penalties decreases.[153] The bill also deletes a $50 exam fee for boiler inspectors, but no loss of revenue is expected, as the exam is not conducted by the State Fire Marshal.[154]

2. Expenditures:

The bill will have an indeterminate, but likely insignificant, negative fiscal impact on state expenditures. *See* Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Reducing the penalty calculation period and increasing credits for businesses that fail to comply with the workers' compensation law, so long as the business has not previously failed to provide workers' compensation coverage for its employees, should reduce the cost of non-compliance for small businesses, particularly those in the construction industry.

Exempting schedules of maximum reimbursement for ambulatory surgical centers, healthcare providers, and hospitals from legislative ratification likely would result in increased fees to providers of healthcare, but could also force insurers to request rate increases to pay such costs.

Permitting payroll audits by mail, rather than in person, for employers in the construction industry that have an estimated annual workers' compensation premium of less than $10,000 could result in modest cost savings for insurance carriers.

Permitting unaffiliated insurance agents to adjust claims, so long as the agent is also a licensed adjuster, could create employment opportunities for persons who hold both licenses and increase the pool of adjusters who can respond in the aftermath of a large storm or catastrophic event.

Terminating the Florida Patient's Compensation Fund could result in refunds to doctors and hospitals that were members of the Fund in the late 1970s and early 1980s.

D. FISCAL COMMENTS:

The cost of adding employees of the Division of Rehabilitation and Liquidation to the State Group Insurance Program is indeterminate. Premiums to be paid by the employees of the Division of Rehabilitation and Liquidation are the same as early retirees.

Before the dissolution of the Florida Patient's Compensation Fund, DFS must attempt to return property held by the Fund to its owners. Any property that cannot be returned to the owner will be transferred to

[153] Email from Austin Stowers, Director of Legislative Affairs, Department of Financial Services, RE: CS/CS/HB 959 Information Requested (Feb. 8, 2022).
[154] *Id*. The exam is conducted by the National Board of Boiler and Pressure Vessel Inspectors.

DFS's Division of Unclaimed Property. Any remaining money or assets after the termination of the Fund will be deposited by DFS in the General Revenue Fund. The Fund currently has a balance of $14.9 million and has not paid a claim since the 1980s.[155]

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:

Restricting compensation to public adjusters when a claim is resolved by litigation (Section 47 of the bill) could deter public adjusters from assisting consumers who have complex disputes with a property insurer and infringe on the public adjuster's right to bargain for his or her services.

B. RULE-MAKING AUTHORITY:

Section 14. The bill gives DWC explicit rulemaking authority to administer programs related to maximum reimbursement allowances established by the Three-Member panel in accordance with s. 440.13(12), F.S.

Section 16. Amendments to s. 440.381, F.S., will require revisions to r. 69O-189.003(b)3, F.A.C., promulgated by OIR, relating to payroll audits for workers' compensation insurance.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2022, the Insurance & Banking Subcommittee considered the bill, adopted four amendments, and reported the bill favorably as a committee substitute. The amendments made the following changes to the bill:

- Made changes to the requirements for service of process upon the Chief Financial Officer;
- Clarified language related to payroll audits for worker's compensation insurance;
- Corrected a scrivener's error in a provision related to workers' compensation compliance laws;
- Corrected technical bill drafting errors;
- Required that the Florida Patient's Compensation Fund (Fund) be subject to a two-year wind down supervised by the Chief Financial Officer;
- Required dissolution of the Fund by December 31, 2023; and
- Repealed the law that created the Fund on January 1, 2024.

Additionally, the amendments moved financial responsibility requirements for hospitals, which are part of the law that created the Fund, to a new section within ch. 395, F.S., and made conforming changes to retain the definition of "health care provider" in laws that are cross referenced with s. 766.105, F.S.

On January 27, 2022, the Finance & Facilities Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removes an unnecessary sentence that relates to the former requirements of the Florida Patient Compensation Fund, which is being prospectively repealed by the bill.

The analysis is drafted to the committee substitute as passed by the Finance & Facilities Subcommittee.

[155] *Id.*

A bill to be entitled

An act relating to Department of Financial Services; repealing s. 17.0315, F.S., relating to the financial and cash management system and task force; amending s. 48.151, F.S.; providing an exception to service of process on public entities under certain circumstances; requiring the Department of Financial Services to create a secure online portal as the sole means to accept certain service of process; amending s. 110.123, F.S.; revising definitions; authorizing specified persons relating to the Division of Rehabilitation and Liquidation to purchase coverage in a state group health insurance plan at specified premium costs; providing that the enrollment period for the state group insurance program begins with a specified plan year for certain persons relating to the division; amending s. 110.131, F.S.; conforming a cross-reference; amending s. 120.541, F.S.; revising applicability of certain provisions relating to a specified proposed rule; amending s. 215.34, F.S.; deleting the requirement for specified entities receiving certain charged-back items to prepare a journal transfer; amending s. 215.93, F.S.; renaming a subsystem of the Florida Financial Management Information System; amending s. 215.94, F.S.;

conforming a provision to changes made by the act; amending s. 216.102, F.S.; making technical changes; amending s. 218.32, F.S.; revising legislative intent; providing functions of the Florida Open Financial Statement System; requiring local governments to use the system to file specified reports; providing requirements for the system; revising the list of entities with which the Chief Financial Officer may consult with regard to the system; authorizing, rather than requiring, certain local governmental financial statements to be filed in a specified format; deleting certain requirements for such statements; providing construction; providing exceptions; creating s. 395.1061, F.S.; providing definitions; requiring certain hospitals and hospital systems to demonstrate financial responsibility for maintaining professional liability coverage; prohibiting the Agency for Health Care Administration from issuing or renewing licenses of hospitals under certain circumstances; providing exemptions from professional liability coverage requirements; amending s. 414.40, F.S.; transferring the Stop Inmate Fraud Program from the Department of Financial Services to the Department of Economic Opportunity; authorizing the program to provide reports of certain data to the Division of Public

Assistance Fraud for a specified purpose; amending s. 440.02, F.S.; revising the definition of the term "employer"; amending s. 440.05, F.S.; revising information that must be submitted with the notice of election to be exempt from workers' compensation coverage; providing the circumstance under which the department must send certain electronic notifications to workers' compensation carriers; providing information included in such notification; requiring certificates of election to be exempt to contain certain notice; deleting a provision requiring certain corporation officers to maintain business records; revising applicability of certificates of election to be exempt; amending s. 440.107, F.S.; revising the timeframe for certain employers to produce specified records under certain circumstances; removing the requirement that specified information be updated daily on certain website; prohibiting employers from entering a payment agreement schedule with the department unless a specified condition is met; revising circumstances that result in immediate reinstatement of stop-work orders; revising penalty assessments; amending s. 440.13, F.S.; revising statewide schedules of maximum reimbursement allowances for medically necessary treatment, care,

and attendance; authorizing the department to adopt rules; amending s. 440.185, F.S.; revising the timeline and methods for workers' compensation carriers to send certain informational brochure to injured workers; revising methods by which such informational brochure is sent to employers; amending s. 440.381, F.S.; specifying workers' compensation policies that require physical onsite audits for a specified class; amending s. 497.277, F.S.; deleting a cap on transferring burial rights fees; amending s. 497.369, F.S.; revising requirements for licenses by endorsement to practice embalming; amending s. 497.372, F.S.; revising the scope of funeral directing practice; amending s. 497.374, F.S.; revising requirements for licenses by endorsement to practice funeral directing; amending s. 554.108, F.S.; requiring boilers manufactured after a specified date, rather than boilers of certain heat input, to be stamped with a specified code symbol; revising the boilers' information that must be filed; requiring that specified spaces and rooms be equipped with carbon monoxide detector devices; amending s. 554.111, F.S.; deleting a requirement for a specified fee for a certificate of competency; requiring applications for boiler permits to include a specified report; revising

the purpose for special trips that the department is required to make for boiler inspections; amending s. 554.114, F.S.; revising the schedules of penalties against boiler insurance companies, inspection agencies, and other persons for specified violations; amending s. 624.307, F.S.; providing that certain regulated persons or unauthorized insurers are required to appoint the Chief Financial Officer as their agents, rather than as their attorneys, to receive service of legal process; revising the method by which the Chief Financial Officer makes the process available; amending s. 624.422, F.S.; requiring insurers to file with the department email-addresses, rather than addresses, of specified persons; providing that a specified method by which process is served upon the Chief Financial Officer is the sole method of service; conforming provisions to changes made by the act; amending s. 624.423, F.S.; revising procedures for service of process; requiring the Chief Financial Officer to promptly notify certain persons of the process and to make the process available to such persons through specified means; revising the method by which records are retained; amending s. 624.610, F.S.; conforming provisions to changes made by the act; amending s. 626.015, F.S.; revising the

definition of the term "unaffiliated insurance agent"; amending s. 626.171, F.S.; requiring fingerprints for certain licenses to be processed in accordance with specified laws; amending s. 626.172, F.S.; revising the method by which fingerprints for applications for insurance agency licenses are submitted; deleting a fingerprint processing fee; creating s. 626.173, F.S.; requiring insurance agencies' licenses to be immediately cancelled under certain circumstances; providing the method by which such cancellations must be made; providing duties for certain insurance agency persons within a specified timeframe after cessation of insurance transactions; authorizing the department to impose administrative fines against such persons for specified violations; providing a cap on such fines; authorizing the department and the Office of Insurance Regulation to suspend or revoke licenses under certain circumstances; providing requirements for determining penalties and remedies; amending s. 626.201, F.S.; conforming a provision to changes made by the act; providing continuation of jurisdiction of the licensing authority to investigate and prosecute specified violations under certain circumstances; amending s. 626.202, F.S.; conforming provisions to changes made by the act; amending s. 626.221, F.S.;

adding a designation to the list of designations that allow applicants for all-lines adjuster license to be exempt from an examination; amending s. 626.311, F.S.; providing an exception to the prohibition against unaffiliated insurance agents' holding appointments from insurers; amending ss. 626.321, 626.601, 626.8411, and 626.8412, F.S.; conforming provisions to changes made by the act; amending s. 626.8417, F.S.; revising requirements to qualify for title insurance agent licenses; amending s. 626.8421, F.S.; requiring title agencies to have separate appointments under certain circumstances; amending s. 626.843, F.S.; providing appointments of title insurance agencies; amending s. 626.8433, F.S.; requiring title insurers that terminate appointments of title insurance agencies to file certain information with the department; amending s. 626.8447, F.S.; providing effects of suspension or revocation of title insurance agency licenses; amending s. 626.854, F.S.; providing restrictions on public adjuster compensations; providing exceptions to such restrictions; amending s. 626.8561, F.S.; revising the definition of the term "public adjuster apprentice"; amending s. 626.865, F.S.; revising requirements to qualify for public adjuster licenses; requiring that certain bonds remain

in effect for a specified period after expiration of the license; amending s. 626.8651, F.S.; requiring that certain bonds remain in effect for a specified period after expiration of the public adjuster apprentice license; revising requirements for public adjuster apprentices to be, act as, or hold themselves out to be public adjust apprentices; amending s. 626.8696, F.S.; revising requirements for adjusting firm license applications; amending s. 626.8732, F.S.; requiring applicants for nonresident public adjuster licenses to maintain certain bonds after the expiration or termination of licenses; amending ss. 626.8734, 626.906, 626.912, 626.937, and 626.9953, F.S.; conforming provisions to changes made by the act; amending s. 633.135, F.S.; providing additional uses for firefighter funds; amending s. 633.216, F.S.; revising requirements for renewal of firesafety inspector certificates; amending s. 633.408, F.S.; revising requirements for the issuance of a Firefighter Certificate of Compliance and Special Certificate of Compliance; deleting provisions relating to requirements to retain a Special Certificate of Compliance; amending s. 633.414, F.S.; providing requirements to retain a Special Certificate of Compliance; revising requirements to retain a

Firefighter Certificate of Compliance; providing a definition; amending ss. 648.34 and 648.355, F.S.; conforming provisions to changes made by the act; amending s. 648.46, F.S.; providing continuation of jurisdiction of the licensing authority to investigate and prosecute specified violations under certain circumstances; amending s. 766.105, F.S.; deleting provisions relating to the duties of the Agency for Health Care Administration and to the board of governors of the Florida Patient's Compensation Fund; requiring that the fund be subject to the supervision and approval of the Chief Financial Officer rather than the board of governors and be dissolved on or before a specified date; providing duties of the department before the legal dissolution of the fund; requiring that provisions relating to the fund be repealed on a specified date; amending ss. 945.6041 and 985.6441, F.S.; making technical changes; transferring the Stop Inmate Fraud Program within the Department of Financial Services to the Department of Economic Opportunity by a type two transfer; providing effective dates.

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

Section 1. Section 17.0315, Florida Statutes, is repealed.

Section 2. Subsections (1) and (3) of section 48.151, Florida Statutes, are amended to read:

48.151 Service on statutory agents for certain persons.—

(1) When any law designates a public officer, board, agency, or commission as the agent for service of process on any person, firm, or corporation, service of process thereunder shall be made by leaving one copy of the process with the public officer, board, agency, or commission or in the office thereof, or by mailing one copy to the public officer, board, agency, or commission, except as provided in subsection (3). The public officer, board, agency, or commission so served shall retain a record copy and promptly send the copy served, by registered or certified mail, to the person to be served as shown by his or her or its records. Proof of service on the public officer, board, agency, or commission shall be by a notice accepting the process which shall be issued by the public officer, board, agency, or commission promptly after service and filed in the court issuing the process. The notice accepting service shall state the date upon which the copy of the process was mailed by the public officer, board, agency, or commission to the person being served and the time for pleading prescribed by the rules of procedure shall run from this date. The service is valid service for all purposes on the person for whom the public officer, board, agency, or commission is statutory agent for

service of process.

(3) The Chief Financial Officer ~~or his or her assistant or deputy or another person in charge of the office~~ is the agent for service of process on all insurers applying for authority to transact insurance in this state, all licensed nonresident insurance agents, all nonresident disability insurance agents licensed pursuant to s. 626.835, any unauthorized insurer under s. 626.906 or s. 626.937, domestic reciprocal insurers, fraternal benefit societies under chapter 632, warranty associations under chapter 634, prepaid limited health service organizations under chapter 636, and persons required to file statements under s. 628.461. ~~As an alternative to service of process made by mail or personal service on the Chief Financial Officer, on his or her assistant or deputy, or on another person in charge of the office,~~ The Department of Financial Services shall ~~may~~ create a secure online portal as the sole means ~~an Internet-based transmission system~~ to accept service of process on the Chief Financial Officer under this section ~~by electronic transmission of documents~~.

Section 3. Subsections (9) through (13) of section 110.123, Florida Statutes, are renumbered as subsection (10) through (14), respectively, paragraphs (b), (c), (f), (h), (i), and (o) of subsection (2) and paragraph (i) of subsection (5) are amended, and a new subsection (9) is added to that section, to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in ss. 110.123-110.1239, the term:

(b) "Enrollee" means all state officers and employees, retired state officers and employees, surviving spouses of deceased state officers and employees, and terminated employees or individuals with continuation coverage who are enrolled in an insurance plan offered by the state group insurance program. The term ~~"Enrollee"~~ includes all state university officers and employees, retired state university officers and employees, surviving spouses of deceased state university officers and employees, and terminated state university employees or individuals with continuation coverage who are enrolled in an insurance plan offered by the state group insurance program. As used in this paragraph, state employees and retired state employees also include employees and retired employees of the Division of Rehabilitation and Liquidation.

(c) "Full-time state employees" means employees of all branches or agencies of state government holding salaried positions who are paid by state warrant or from agency funds and who work or are expected to work an average of at least 30 ~~or more~~ hours per week; employees of the Division of Rehabilitation and Liquidation who work or are expected to work an average of at least 30 hours per week; employees paid from regular salary appropriations for 8 months' employment, including university

personnel on academic contracts; and employees paid from other-personal-services (OPS) funds as described in subparagraphs 1. and 2. The term includes all full-time employees of the state universities. The term does not include seasonal workers who are paid from OPS funds.

1. For persons hired before April 1, 2013, the term includes any person paid from OPS funds who:

a. Has worked an average of at least 30 hours or more per week during the initial measurement period from April 1, 2013, through September 30, 2013; or

b. Has worked an average of at least 30 hours or more per week during a subsequent measurement period.

2. For persons hired after April 1, 2013, the term includes any person paid from OPS funds who:

a. Is reasonably expected to work an average of at least 30 hours or more per week; or

b. Has worked an average of at least 30 hours or more per week during the person's measurement period.

(f) "Part-time state employee" means an employee of any branch or agency of state government paid by state warrant from salary appropriations or from agency funds, or an employee of the Division of Rehabilitation and Liquidation, ~~and~~ who is employed for less than an average of 30 hours per week or, if on academic contract or seasonal or other type of employment which is less than year-round, is employed for less than 8 months

during any 12-month period, but does not include a person paid from other-personal-services (OPS) funds. The term includes all part-time employees of the state universities.

(h) "Retired state officer or employee" or "retiree" means any state or state university officer or employee, or, beginning with the 2023 plan year, an employee of the Division of Rehabilitation and Liquidation, who retires under a state retirement system or a state optional annuity or retirement program or is placed on disability retirement, and who was insured under the state group insurance program or the Division of Rehabilitation and Liquidation's group insurance program at the time of retirement, and who begins receiving retirement benefits immediately after retirement from state or state university office or employment. The term also includes any state officer or state employee who retires under the Florida Retirement System Investment Plan established under part II of chapter 121 if he or she:

1. Meets the age and service requirements to qualify for normal retirement as set forth in s. 121.021(29); or

2. Has attained the age specified by s. 72(t)(2)(A)(i) of the Internal Revenue Code and has 6 years of creditable service.

(i) "State agency" or "agency" means any branch, department, or agency of state government. "State agency" or "agency" includes any state university and the Division of Rehabilitation and Liquidation for purposes of this section

only.

(o) "Surviving spouse" means the widow or widower of a deceased state officer, full-time state employee, part-time state employee, or retiree if such widow or widower was covered as a dependent under the state group health insurance plan, TRICARE supplemental insurance plan, ~~or~~ a health maintenance organization plan established pursuant to this section, or the Division of Rehabilitation and Liquidation's group insurance program at the time of the death of the deceased officer, employee, or retiree. "Surviving spouse" also means any widow or widower who is receiving or eligible to receive a monthly state warrant from a state retirement system as the beneficiary of a state officer, full-time state employee, or retiree who died prior to July 1, 1979. For the purposes of this section, any such widow or widower shall cease to be a surviving spouse upon his or her remarriage.

(5) DEPARTMENT POWERS AND DUTIES.—The department is responsible for the administration of the state group insurance program. The department shall initiate and supervise the program as established by this section and shall adopt such rules as are necessary to perform its responsibilities. To implement this program, the department shall, with prior approval by the Legislature:

(i) Contract with a single custodian to provide services necessary to implement and administer the health savings

accounts authorized in subsection (13) ~~(12)~~.

Final decisions concerning enrollment, the existence of coverage, or covered benefits under the state group insurance program shall not be delegated or deemed to have been delegated by the department.

(9) COVERAGE AND ENROLLMENT PERIOD FOR EMPLOYEES, RETIREES, AND WIDOWS AND WIDOWERS OF EMPLOYEES AND RETIREES OF THE DIVISION OF REHABILITATION AND LIQUIDATION.—

(a) Beginning with the 2023 plan year:

1. A retired employee insured under the Division of Rehabilitation and Liquidation's group insurance program, or a widow or widower of an employee or of a retired employee of the Division of Rehabilitation and Liquidation who is covered as a dependent under the Division of Rehabilitation and Liquidation's group insurance program, may purchase coverage in a state group health insurance plan at the same premium cost as that for a retiree or a surviving spouse, respectively, enrolled in the state group insurance program.

2. A terminated employee of the Division of Rehabilitation and Liquidation, or an individual with continuing coverage, who is insured under the Division of Rehabilitation and Liquidation's group insurance program, may purchase coverage in a state group health insurance plan at the same premium cost as that for a terminated employee or an individual with

continuation coverage, respectively, enrolled in the state group insurance program.

(b) The enrollment period for the state group insurance program begins with the 2023 plan year for:

1. Current and retired employees of the Division of Rehabilitation and Liquidation.

2. Widows and widowers of employees and of retired employees of the Division of Rehabilitation and Liquidation.

3. Terminated employees of the Division of Rehabilitation and Liquidation, or individuals with continuation coverage, who are insured under the Division of Rehabilitation and Liquidation's group insurance program.

Section 4. Subsection (5) of section 110.131, Florida Statutes, is amended to read:

110.131 Other-personal-services employment.—

(5) Beginning January 1, 2014, an other-personal-services (OPS) employee who has worked an average of at least 30 or more hours per week during the measurement period described in s. 110.123(14)(c) or (d) ~~s. 110.123(13)(c) or (d)~~, or who is reasonably expected to work an average of at least 30 or more hours per week following his or her employment, is eligible to participate in the state group insurance program as provided under s. 110.123.

Section 5. Paragraph (d) is added to subsection (4) of section 120.541, Florida Statutes, and paragraph (a) of

subsection (2) and subsection (3) of that section are republished, to read:

120.541 Statement of estimated regulatory costs.—

(2) A statement of estimated regulatory costs shall include:

(a) An economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule;

2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within 5 years after the implementation of the rule; or

3. Is likely to increase regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within 5 years after the implementation of the rule.

(3) If the adverse impact or regulatory costs of the rule exceed any of the criteria established in paragraph (2)(a), the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may

not take effect until it is ratified by the Legislature.

(4) Subsection (3) does not apply to the adoption of:

(d) Schedules of maximum reimbursement allowances by the three-member panel which are expressly authorized by s. 440.13.

Section 6. Subsection (1) of section 215.34, Florida Statutes, is amended to read:

215.34 State funds; noncollectible items; procedure.—

(1) Any check, draft, or other order for the payment of money in payment of any licenses, fees, taxes, commissions, or charges of any sort authorized to be made under the laws of the state and deposited in the State Treasury as provided herein, which may be returned for any reason by the bank or other payor upon which same shall have been drawn shall be forthwith returned by the Chief Financial Officer for collection to the state officer, the state agency, or the entity of the judicial branch making the deposit. In such case, the Chief Financial Officer may issue a debit memorandum charging an account of the agency, officer, or entity of the judicial branch which originally received the payment. The original of the debit memorandum shall state the reason for the return of the check, draft, or other order and shall accompany the item being returned to the officer, agency, or entity of the judicial branch being charged. The officer, agency, or entity of the judicial branch receiving the charged-back item shall ~~prepare a journal transfer which shall~~ debit the charge against the fund

or account to which the same shall have been originally credited. Such procedure for handling noncollectible items shall not be construed as paying funds out of the State Treasury without an appropriation, but shall be considered as an administrative procedure for the efficient handling of state records and accounts.

Section 7. Paragraph (c) of subsection (1) of section 215.93, Florida Statutes, is amended to read:

215.93 Florida Financial Management Information System.—

(1) To provide the information necessary to carry out the intent of the Legislature, there shall be a Florida Financial Management Information System. The Florida Financial Management Information System shall be fully implemented and shall be upgraded as necessary to ensure the efficient operation of an integrated financial management information system and to provide necessary information for the effective operation of state government. Upon the recommendation of the coordinating council and approval of the board, the Florida Financial Management Information System may require data from any state agency information system or information subsystem or may request data from any judicial branch information system or information subsystem that the coordinating council and board have determined to have statewide financial management significance. Each functional owner information subsystem within the Florida Financial Management Information System shall be

developed in such a fashion as to allow for timely, positive, preplanned, and prescribed data transfers between the Florida Financial Management Information System functional owner information subsystems and from other information systems. The principal unit of the system shall be the functional owner information subsystem, and the system shall include, but shall not be limited to, the following:

(c) Financial ~~Cash~~ Management Subsystem.

Section 8. Subsection (3) of section 215.94, Florida Statutes, is amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(3) The Chief Financial Officer shall be the functional owner of the Financial ~~Cash~~ Management Subsystem. The Chief Financial Officer shall design, implement, and operate the subsystem in accordance with the provisions of ss. 215.90-215.96. The subsystem shall include, but shall not be limited to, functions for:

(a) Recording and reconciling credits and debits to treasury fund accounts.

(b) Monitoring cash levels and activities in state bank accounts.

(c) Monitoring short-term investments of idle cash.

(d) Administering the provisions of the Federal Cash Management Improvement Act of 1990.

Section 9. Subsection (3) of section 216.102, Florida Statutes, is amended to read:

216.102 Filing of financial information; handling by Chief Financial Officer; penalty for noncompliance.—

(3) The Chief Financial Officer shall:

(a) Prepare and furnish to the Auditor General annual financial statements for the state on or before December 31 of each year, using generally accepted accounting principles.

(b) Prepare and publish an annual ~~a~~ comprehensive ~~annual~~ financial report for the state in accordance with generally accepted accounting principles on or before February 28 of each year.

(c) Furnish the Governor, the President of the Senate, and the Speaker of the House of Representatives with a copy of the annual comprehensive ~~annual~~ financial report prepared pursuant to paragraph (b).

(d) Notify each agency and the judicial branch of the data that is required to be recorded to enhance accountability for tracking federal financial assistance.

(e) Provide reports, as requested, to executive or judicial branch entities, the President of the Senate, the Speaker of the House of Representatives, and the members of the Florida Congressional Delegation, detailing the federal financial assistance received and disbursed by state agencies and the judicial branch.

(f) Consult with and elicit comments from the Executive Office of the Governor on changes to the Florida Accounting Information Resource Subsystem which clearly affect the accounting of federal funds, so as to ensure consistency of information entered into the Federal Aid Tracking System by state executive and judicial branch entities. While efforts shall be made to ensure the compatibility of the Florida Accounting Information Resource Subsystem and the Federal Aid Tracking System, any successive systems serving identical or similar functions shall preserve such compatibility.

The Chief Financial Officer may furnish and publish in electronic form the financial statements and the annual comprehensive ~~annual~~ financial report required under paragraphs (a), (b), and (c).

Section 10. Paragraph (h) of subsection (1) of section 218.32, Florida Statutes, is amended, and paragraph (i) is added to subsection (1) of that section, to read:

218.32 Annual financial reports; local governmental entities.—

(1)

(h) ~~It is the intent of the Legislature to create~~ The Florida Open Financial Statement System must serve as~~,~~ an interactive repository for governmental financial statements. This system serves as the primary reporting location for

government financial information. A local government shall use the system to file with the department copies of all audit reports compiled pursuant to ss. 11.45 and 218.39. The system must be accessible to the public and must be open to inspection at all times by the Legislature, the Auditor General, and the Chief Inspector General.

1. The Chief Financial Officer may consult with stakeholders with regard to~~, including the department, the Auditor General, a representative of a municipality or county, a representative of a special district, a municipal bond investor, and an information technology professional employed in the private sector, for input on the design and implementation of~~ the Florida Open Financial Statement System.

2. The Chief Financial Officer may choose contractors to build one or more eXtensible Business Reporting Language (XBRL) taxonomies suitable for state, county, municipal, and special district financial filings and to create a software tool that enables financial statement filers to easily create XBRL documents consistent with such taxonomies. The Chief Financial Officer must recruit and select contractors through an open request for proposals process pursuant to chapter 287.

3. The Chief Financial Officer must require that all work products be completed no later than December 31, 2021.

4. If the Chief Financial Officer deems the work products adequate, all local governmental financial statements for fiscal

years ending on or after September 1, 2022, may ~~must~~ be filed in XBRL format prescribed by the Chief Financial Officer ~~and must meet the validation requirements of the relevant taxonomy~~.

5. A local government that begins filing in XBRL format may not be required to make filings in Portable Document Format.

(i) Each local governmental entity that enters all required information in the Florida Open Financial Statement System is deemed to be compliant with this section, except as otherwise provided in this section.

Section 11. 395.1061, Florida Statutes, is created to read:

395.1061 Professional liability coverage.—

(1) As used in this section, the term:

(a) "Committee" means a committee or board of a hospital established to make recommendations, policies, or decisions regarding patient institutional utilization, patient treatment, or institutional staff privileges or to perform other administrative or professional purposes or functions.

(b) "Covered individuals" means the officers; trustees; volunteer workers; trainees; committee members, including physicians, osteopathic physicians, podiatric physicians, and dentists; and employees of the hospital other than employed physicians licensed under chapter 458, physician assistants licensed under chapter 458, osteopathic physicians licensed under chapter 459, dentists licensed under chapter 466, and

podiatric physicians licensed under chapter 461. However, with respect to a hospital, the term also includes house physicians, interns, employed physician residents in a resident training program, and physicians performing purely administrative duties for the hospital instead of treating patients.

(c) "Hospital system" means two or more hospitals associated by common ownership or corporate affiliation.

(d) "House physician" means any physician, osteopathic physician, podiatric physician, or dentist at a hospital, except:

1. The physician, osteopathic physician, podiatric physician, or dentist who has staff privileges at a hospital, provides emergency room services, or performs a medical or dental service for a fee; or

2. An anesthesiologist, pathologist, or radiologist.

(e) "Occurrence" means an accident or incident, including continuous or repeated exposure to certain harmful conditions, which results in patient injuries.

(f) "Per claim" means all claims per patient arising out of an occurrence.

(2) Each hospital, unless exempted under paragraph (3)(b), must demonstrate financial responsibility for maintaining professional liability coverage to pay claims and costs ancillary thereto arising out of the rendering of or failure to render medical care or services and for bodily injury or

property damage to the person or property of any patient arising out of the activities of the hospital or arising out of the activities of covered individuals, to the satisfaction of the Agency for Health Care Administration, by meeting one of the following requirements:

(a) Establish an escrow account in an amount equivalent to $10,000 per claim for each bed in such hospital, not to exceed a $2.5 million annual aggregate.

(b) Obtain professional liability coverage in an amount equivalent to $10,000 or more per claim for each bed in such hospital from a private insurer, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357. However, a hospital may not be required to obtain such coverage in an amount exceeding a $2.5 million annual aggregate.

(3)(a) Each hospital, unless exempted under paragraph (b), shall provide evidence of compliance and remain in continuous compliance with the professional liability coverage provisions of this section. The Agency for Health Care Administration may not issue or renew the license of any hospital that does not provide evidence of compliance or that provides evidence of insufficient coverage.

(b) Any hospital operated by an agency, subdivision, or instrumentality of the state is exempt from the provisions of this section.

(4) A hospital system may meet the professional liability coverage requirement with an escrow account, insurance, or self-insurance policies if the $10,000 per claim and $2.5 million annual aggregate are met for each hospital in the hospital system.

Section 12. Section 414.40, Florida Statutes, is amended to read:

414.40 Stop Inmate Fraud Program established; guidelines.—

(1) There is created within the Department of Economic Opportunity ~~Financial Services~~ a Stop Inmate Fraud Program.

(2) The Department of Economic Opportunity ~~Financial Services~~ is directed to implement the Stop Inmate Fraud Program in accordance with the following guidelines:

(a) The program shall establish procedures for sharing public records not exempt from the public records law among social services agencies regarding the identities of persons incarcerated in state correctional institutions, as defined in s. 944.02, and ~~or~~ in county, municipal, or regional jails or other detention facilities of local governments under chapters ~~chapter~~ 950 and ~~or chapter~~ 951 who are wrongfully receiving public assistance benefits or entitlement benefits.

(b) Pursuant to these procedures, the program shall have access to records containing correctional information not exempt from the public records law on incarcerated persons which have been generated as criminal justice information. As used in this

paragraph, the terms "record" and "criminal justice information" have the same meanings as provided in s. 943.045.

(c) Database searches shall be conducted of the inmate population at each correctional institution or other detention facility. A correctional institution or a detention facility shall provide the Stop Inmate Fraud Program with the information necessary to identify persons wrongfully receiving benefits in the medium requested by the Stop Inmate Fraud Program if the correctional institution or detention facility maintains the information in that medium.

(d) Data obtained from correctional institutions or other detention facilities shall be compared with the client files of the Department of Children and Families, the Department of Economic Opportunity, and other state or local agencies as needed to identify persons wrongfully obtaining benefits. Data comparisons shall be accomplished during periods of low information demand by agency personnel to minimize inconvenience to the agency.

(e) Results of data comparisons shall be furnished to the appropriate office for use in the county in which the data originated. The program may provide reports of the data it obtains to appropriate state, federal, and local government agencies or governmental entities, including, but not limited to:

1. The Child Support Enforcement Program of the Department

of Revenue, so that the data may be used as locator information on persons being sought for purposes of child support.

2. The Social Security Administration, so that the data may be used to reduce federal entitlement fraud within the state.

3. The Division of Public Assistance Fraud of the Department of Financial Services, so that an investigation of the fraudulent receipt of public assistance may be facilitated.

(f) Reports by the program to another agency or entity shall be generated bimonthly, or as otherwise directed, and shall be designed to accommodate that agency's or entity's particular needs for data.

(g) Only those persons with active cases, or with cases that were active during the incarceration period, shall be reported, in order that the funding agency or entity, upon verification of the data, may take whatever action is deemed appropriate.

(h) For purposes of program review and analysis, each agency or entity receiving data from the program shall submit reports to the program which indicate the results of how the data was used.

Section 13. Paragraph (a) of subsection (16) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall

have the following meanings:

(16)(a) "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. The term ~~"Employer"~~ also includes employment agencies and~~,~~ employee leasing companies that~~, and similar agents who~~ provide employees to other business entities or persons. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105, 440.106, and 440.107.

Section 14. Effective January 1, 2023, subsections (11) through (15) of section 440.05, Florida Statutes, are renumbered as subsections (10) through (14), respectively, subsections (3) and (4) and present subsections (10) and (12) of that section are amended, to read:

440.05 Election of exemption; revocation of election; notice; certification.—

(3) The notice of election to be exempt must be electronically submitted to the department by the officer of a corporation who is allowed to claim an exemption as provided by this chapter and must list the name, date of birth, valid driver

license number or Florida identification card number, and all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption, the registration number of the corporation filed with the Division of Corporations of the Department of State, and the percentage of ownership evidencing the required ownership under this chapter. The notice of election to be exempt must identify each corporation that employs the person electing the exemption and must list the ~~social security number or~~ federal tax identification number of each such employer and the additional documentation required by this section. In addition, the notice of election to be exempt must provide that the officer electing an exemption is not entitled to benefits under this chapter, must provide that the election does not exceed exemption limits for officers provided in s. 440.02, ~~and~~ must certify that any employees of the corporation whose officer elects an exemption are covered by workers' compensation insurance, and must certify that the officer electing an exemption has completed an online workers' compensation coverage and compliance tutorial developed by the department. Upon receipt of the notice of the election to be exempt, receipt of all application fees, and a determination by the department that the notice meets the requirements of this subsection, the department shall issue a certification of the election to the officer, unless the department determines that the information contained in the notice is invalid. The

department shall revoke a certificate of election to be exempt from coverage upon a determination by the department that the person does not meet the requirements for exemption or that the information contained in the notice of election to be exempt is invalid. The certificate of election must list the name of the corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new or different corporation that is not listed on the certificate of election. Upon written request from a workers' compensation carrier, the department shall send thereafter an electronic notification to the carrier identifying each of its policyholders for which a notice of election to be exempt has been issued or for which a notice of revocation to be exempt has been received ~~A notice of the certificate of election must be sent to each workers' compensation carrier identified in the request for exemption~~. Upon filing a notice of revocation of election, an officer who is a subcontractor or an officer of a corporate subcontractor must notify her or his contractor. ~~Upon revocation of a certificate of election of exemption by the department, the department shall notify the workers' compensation carriers identified in the request for exemption.~~

(4) The notice of election to be exempt from the provisions of this chapter must contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive the department or

any employer or employee, insurance company, or any other person, files a notice of election to be exempt containing any false or misleading information is guilty of a felony of the third degree." Each person filing a notice of election to be exempt shall personally sign the notice and attest that he or she has reviewed, understands, and acknowledges the foregoing notice. The certificate of election to be exempt must contain the following notice: "This certificate of election to be exempt is NOT a license issued by the Department of Business and Professional Regulation (DBPR). To determine if the certificateholder is required to have a license to perform work or to verify the license of the certificateholder, go to (insert DBPR's website address for where to find this information)."

~~(10) Each officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter shall maintain business records as specified by the department by rule.~~

(11) ~~(12)~~ Certificates of election to be exempt issued under subsection (3) ~~shall~~ apply only to the corporate officer named on the notice of election to be exempt ~~and apply only within the scope of the business or trade listed on the notice of election to be exempt~~.

Section 15. Effective January 1, 2023, paragraphs (a) and (d) of subsection (7) of section 440.107, Florida Statutes, are amended to read:

440.107 Department powers to enforce employer compliance with coverage requirements.—

(7)(a) Whenever the department determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to secure the payment of workers' compensation required by this chapter or to produce the required business records under subsection (5) within 21 ~~10 business~~ days after receipt of the written request of the department, such failure shall be deemed an immediate serious danger to public health, safety, or welfare sufficient to justify service by the department of a stop-work order on the employer, requiring the cessation of all business operations. If the department makes such a determination, the department shall issue a stop-work order within 72 hours. The order shall take effect when served upon the employer or, for a particular employer worksite, when served at that worksite. In addition to serving a stop-work order at a particular worksite which shall be effective immediately, the department shall immediately proceed with service upon the employer which shall be effective upon all employer worksites in the state for which the employer is not in compliance. A stop-work order may be served with regard to an employer's worksite by posting a copy of the stop-work order in a conspicuous location at the worksite. Information related to an employer's stop-work order shall be made available on the division's website~~, be updated~~

~~daily,~~ and remain on the website for at least 5 years. The order shall remain in effect until the department issues an order releasing the stop-work order upon a finding that the employer has come into compliance with the coverage requirements of this chapter and has paid any penalty assessed under this section. The department may issue an order of conditional release from a stop-work order to an employer upon a finding that the employer has complied with the coverage requirements of this chapter, paid a penalty of $1,000 as a down payment, and agreed to remit periodic payments of the remaining penalty amount pursuant to a payment agreement schedule with the department or pay the remaining penalty amount in full. An employer may not enter into a payment agreement schedule unless the employer has fully paid any previous penalty assessed under this section. If an order of conditional release is issued, failure by the employer to pay the penalty in full or enter into a payment agreement with the department within 21 ~~28~~ days after service of the first penalty assessment calculation ~~stop-work order~~ upon the employer, or to meet any term or condition of such penalty payment agreement, shall result in the immediate reinstatement of the stop-work order and the entire unpaid balance of the penalty shall become immediately due.

(d)1. In addition to any penalty, stop-work order, or injunction, the department shall assess against an ~~any~~ employer who has failed to secure the payment of compensation as required

by this chapter a penalty equal to 2 times the amount the employer would have paid in premium when applying approved manual rates to the employer's payroll during periods for which it failed to secure the payment of workers' compensation required by this chapter within the preceding 12-month ~~2-year~~ period or $1,000, whichever is greater. However, for an employer who is issued a stop-work order for materially understating or concealing payroll or has been previously issued a stop-work order or order of penalty assessment, the preceding 24-month period shall be used to calculate the penalty as specified in this subparagraph.

a. For an employer ~~employers~~ who has ~~have~~ not been previously issued a stop-work order or order of penalty assessment, the department must allow the employer to receive a credit for the initial payment of the estimated annual workers' compensation policy premium, as determined by the carrier, to be applied to the penalty. Before applying the credit to the penalty, the employer must provide the department with documentation reflecting that the employer has secured the payment of compensation pursuant to s. 440.38 and proof of payment to the carrier. In order for the department to apply a credit for an employer that has secured workers' compensation for leased employees by entering into an employee leasing contract with a licensed employee leasing company, the employer must provide the department with a written confirmation, by a

representative from the employee leasing company, of the dollar or percentage amount attributable to the initial estimated workers' compensation expense for leased employees, and proof of payment to the employee leasing company. The credit may not be applied unless the employer provides the documentation and proof of payment to the department within 21 ~~28~~ days after the employer's receipt of the written request to produce business records for calculating the penalty under this subparagraph ~~service of the stop-work order or first order of penalty assessment upon the employer~~.

b. For an employer ~~employers~~ who has ~~have~~ not been previously issued a stop-work order or order of penalty assessment, the department must reduce the final assessed penalty by 25 percent if the employer has complied with administrative rules adopted pursuant to subsection (5) and has provided such business records to the department within 21 ~~10 business~~ days after the employer's receipt of the written request to produce business records for calculating the penalty under this subparagraph.

c. For an employer who has not been previously issued a stop-work order or order of penalty assessment, the department must reduce the final assessed penalty by 15 percent if the employer correctly answers at least 80 percent of the questions from an online workers' compensation coverage and compliance tutorial, developed by the department, within 21 days after the

employer's receipt of the written request to produce business records for calculating the penalty under this subparagraph. The online tutorial must be taken in a department office location identified by rule.

~~c.~~ The $1,000 penalty shall be assessed against the employer even if the calculated penalty after the credit provided in sub-subparagraph a., the ~~and~~ 25 percent reduction provided in sub-subparagraph b., and the 15 percent reduction provided in sub-subparagraph c., as applicable, have been applied is less than $1,000.

2. Any subsequent violation within 5 years after the most recent violation shall, in addition to the penalties set forth in this subsection, be deemed a knowing act within the meaning of s. 440.105.

Section 16. Subsection (12) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on

account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in observation status, which shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs. An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program shall be reimbursed:

1. ~~either~~ The agreed-upon contract price; or

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

2. If there is no agreed-upon contract price, the lesser of the provider's billed charge or the maximum reimbursement allowance in the appropriate schedule.

(b) It is the intent of the Legislature to increase the schedule of maximum reimbursement allowances for selected physicians effective January 1, 2004, and to pay for the increases through reductions in payments to hospitals. Revisions developed pursuant to this subsection are limited to the following:

1. Payments for outpatient physical, occupational, and speech therapy provided by hospitals shall be reduced to the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

2. Payments for scheduled outpatient nonemergency radiological and clinical laboratory services that are not provided in conjunction with a surgical procedure shall be reduced to the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

3. Outpatient reimbursement for scheduled surgeries shall be reduced from 75 percent of charges to 60 percent of charges.

4. Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be increased to 110 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

5. Maximum reimbursement for surgical procedures shall be increased to 140 percent of the reimbursement allowed by Medicare or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

(c) As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus $4.18 for the dispensing fee. For repackaged or relabeled prescription medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average wholesale price, plus $8.00 for the dispensing fee. For purposes of this subsection, the average wholesale price shall be calculated by multiplying the number of units dispensed times the per-unit average wholesale price set by the original manufacturer of the underlying drug dispensed by the practitioner, based upon the published manufacturer's average wholesale price published in the Medi-Span Master Drug Database as of the date of dispensing. All pharmaceutical claims submitted for repackaged or relabeled prescription medications must include the National Drug Code of the original manufacturer. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount except where the employer or carrier, or a service company, third party administrator, or any entity acting on behalf of the employer or carrier directly contracts with the

provider seeking reimbursement for a lower amount.

(d) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance

required by injured workers;

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers; and

4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408.

(e) In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel and may adopt rules necessary to administer this subsection. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

Section 17. Subsection (3) of section 440.185, Florida Statutes, is amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(3) Within 3 business days after the employer or the employee informs the carrier of an injury, the carrier shall send by regular mail or e-mail to the injured worker an informational brochure approved by the department which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. Annually, the carrier or its third-party administrator shall send by regular mail or e-mail to the employer an informational brochure approved by the department which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. All such informational brochures shall contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information commits a felony of the third degree."

Section 18. Subsection (3) of section 440.381, Florida Statutes, is amended to read:

440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.—

(3) The Financial Services Commission, in consultation with the department, shall establish by rule minimum requirements for audits of payroll and classifications ~~in order~~ to ensure that the appropriate premium is charged for workers' compensation coverage. The rules must ~~shall~~ ensure that audits performed by both carriers and employers are adequate to provide that all sources of payments to employees, subcontractors, and independent contractors are ~~have been~~ reviewed and that the accuracy of classification of employees is ~~has been~~ verified. The rules must require ~~shall provide~~ that employers in all classes other than the construction class be audited at least ~~not less frequently than~~ biennially and may provide for more frequent audits of employers in specified classifications based on factors such as amount of premium, type of business, loss ratios, or other relevant factors. ~~In no event shall~~ Employers in the construction class, generating more than the amount of premium required to be experience rated must~~,~~ be audited at least ~~less than~~ annually. The annual audits required for construction classes must ~~shall~~ consist of physical onsite audits for policies only if the estimated annual premium is $10,000 or more. Payroll verification audit rules must include,

but need not be limited to, the use of state and federal reports of employee income, payroll and other accounting records, certificates of insurance maintained by subcontractors, and duties of employees. At the completion of an audit, the employer or officer of the corporation and the auditor must print and sign their names on the audit document and attach proof of identification to the audit document.

Section 19. Subsection (2) of section 497.277, Florida Statutes, is amended to read:

497.277 Other charges.—Other than the fees for the sale of burial rights, burial merchandise, and burial services, no other fee may be directly or indirectly charged, contracted for, or received by a cemetery company as a condition for a customer to use any burial right, burial merchandise, or burial service, except for:

(2) Charges paid for transferring burial rights from one purchaser to another~~; however, no such fee may exceed $50~~.

Section 20. Paragraph (b) of subsection (1) of section 497.369, Florida Statutes, is amended to read:

497.369 Embalmers; licensure as an embalmer by endorsement; licensure of a temporary embalmer.—

(1) The licensing authority shall issue a license by endorsement to practice embalming to an applicant who has remitted an examination fee set by rule of the licensing authority not to exceed $200 and who the licensing authority

certifies:

(b)1. Holds a valid license in good standing to practice embalming in another state of the United States and has engaged in the full-time, licensed practice of embalming in that state for at least 5 years~~, provided that, when the applicant secured her or his original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in this state~~; or

2. Meets the qualifications for licensure in s. 497.368, except that the internship requirement shall be deemed to have been satisfied by 1 year's practice as a licensed embalmer in another state, and has, within 10 years before ~~prior to~~ the date of application, successfully completed a state, regional, or national examination in mortuary science, which, as determined by rule of the licensing authority, is substantially equivalent to or more stringent than the examination given by the licensing authority.

Section 21. Paragraphs (b) and (f) of subsection (1) of section 497.372, Florida Statutes, are amended to read:

497.372 Funeral directing; conduct constituting practice of funeral directing.—

(1) The practice of funeral directing shall be construed to consist of the following functions, which may be performed only by a licensed funeral director:

(b) Planning or arranging, on an at-need basis, the

details of funeral services, embalming, cremation, or other services relating to the final disposition of human remains, and ~~including the removal of such remains from the state; setting the time of the services;~~ establishing the type of services to be rendered~~; acquiring the services of the clergy; and obtaining vital information for the filing of death certificates and obtaining of burial transit permits~~.

(f) Directing, being in charge or apparent charge of, or supervising, directly or indirectly, any memorial service ~~held prior to or within 72 hours of the burial or cremation,~~ if such memorial service is sold or arranged by a licensee.

Section 22. Paragraph (b) of subsection (1) of section 497.374, Florida Statutes, is amended to read:

497.374 Funeral directing; licensure as a funeral director by endorsement; licensure of a temporary funeral director.—

(1) The licensing authority shall issue a license by endorsement to practice funeral directing to an applicant who has remitted a fee set by rule of the licensing authority not to exceed $200 and who:

(b)1. Holds a valid license in good standing to practice funeral directing in another state of the United States and has engaged in the full-time, licensed practice of funeral directing in that state for at least 5 years~~, provided that, when the applicant secured her or his original license, the requirements for licensure were substantially equivalent to or more stringent~~

~~than those existing in this state~~; or

2. Meets the qualifications for licensure in s. 497.373, except that the applicant need not hold an associate degree or higher if the applicant holds a diploma or certificate from an accredited program of mortuary science, and has successfully completed a state, regional, or national examination in mortuary science or funeral service arts, which, as determined by rule of the licensing authority, is substantially equivalent to or more stringent than the examination given by the licensing authority.

Section 23. Subsection (6) of section 554.108, Florida Statutes, is renumbered as subsection (7), subsection (1) is amended, and a new subsection (6) is added to that section, to read:

554.108 Inspection.—

(1) The inspection requirements of this chapter apply only to boilers located in public assembly locations. A ~~potable hot water supply~~ boiler with an ~~a heat~~ input of 200,000 British thermal units (Btu) per hour and above, up to an ~~a heat~~ input not exceeding 400,000 Btu per hour, is exempt from inspection; however, such an exempt boiler, if manufactured after July 1, 2022, ~~but~~ must be stamped with the A.S.M.E. code symbol. Additionally, ~~"HLW" and~~ the ~~boiler's~~ A.S.M.E data report of a boiler with an input of 200,000 to 400,000 Btu per hour must be filed as required under s. 554.103(2).

(6) Each enclosed space or room containing a boiler

regulated under this chapter which is fired by the direct application of energy from the combustion of fuels and which is located in any portion of a public lodging establishment under s. 509.242 shall be equipped with one or more carbon monoxide detector devices.

Section 24. Paragraphs (a) and (e) of subsection (1) and paragraph (a) of subsection (2) of section 554.111, Florida Statutes, are amended to read:

554.111 Fees.—

(1) The department shall charge the following fees:

(a) For an applicant for a certificate of competency, the initial application fee shall be $50, and the annual renewal fee shall be $30. ~~The fee for examination shall be $50.~~

(e) An application for a boiler permit must include the manufacturer's data report ~~applicable certificate inspection fee provided in paragraph (b)~~.

(2) Not more than an amount equal to one certificate inspection fee may be charged or collected for any and all boiler inspections in any inspection period, except as otherwise provided in this chapter.

(a) When it is necessary to make a special trip for testing and verification inspections ~~to observe the application of a hydrostatic test~~, an additional fee equal to the fee for a certificate inspection of the boiler must be charged.

Section 25. Subsection (4) of section 554.114, Florida

Statutes, is amended to read:

554.114 Prohibitions; penalties.—

(4) A boiler insurance company, authorized inspection agency, or other person in violation of this section for more than 30 days shall pay a fine of $10 per day for the subsequent ~~first~~ 10 days of noncompliance, $50 per day for the subsequent 20 days of noncompliance, and $100 per day for each subsequent day ~~over 20 days~~ of noncompliance thereafter.

Section 26. Subsection (9) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(9) Upon receiving service of legal process issued in any civil action or proceeding in this state against any regulated person or any unauthorized insurer under s. 626.906 or s. 626.937 that ~~which~~ is required to appoint the Chief Financial Officer as its agent ~~attorney~~ to receive service of all legal process, the Chief Financial Officer shall make the process available through a secure online portal~~, as attorney, may, in lieu of sending the process by registered or certified mail, send the process or make it available by any other verifiable means, including, but not limited to, making the documents available by electronic transmission from a secure website~~ established by the department to the person last designated by the regulated person or the unauthorized insurer to receive the process. When process documents are made available

electronically, the Chief Financial Officer shall promptly send a notice of receipt of service of process to the person last designated by the regulated person or unauthorized insurer to receive legal process. The notice must state the date ~~and manner in which the copy of~~ the process was made available to the regulated person or unauthorized insurer being served and contain the uniform resource locator (URL) where ~~for a hyperlink to access files and information on the department's website to obtain a copy of~~ the process may be obtained.

Section 27. Section 624.422, Florida Statutes, is amended to read:

624.422 Service of process; appointment of Chief Financial Officer as process agent.—

(1) Each licensed insurer, whether domestic, foreign, or alien, shall be deemed to have appointed the Chief Financial Officer and her or his successors in office as its agent ~~attorney~~ to receive service of all legal process issued against it in any civil action or proceeding in this state; and process so served shall be valid and binding upon the insurer.

(2) Before ~~Prior to~~ its authorization to transact insurance in this state, each insurer shall file with the department designation of the name and e-mail address of the person to whom process against it served upon the Chief Financial Officer is to be made available through the department's secure online portal ~~forwarded~~. Each insurer shall

also file with the department designation of the name and e-mail address of the person to whom the department shall forward civil remedy notices filed under s. 624.155. The insurer may change a designation at any time by a new filing.

(3) Service of process submitted through the department's secure online portal upon the Chief Financial Officer as the insurer's agent ~~attorney~~ pursuant to such an appointment shall be the sole method of service of process upon an authorized domestic, foreign, or alien insurer in this state.

Section 28. Subsection (1) of section 624.423, Florida Statutes, is amended to read:

624.423 Serving process.—

(1) Service of process upon the Chief Financial Officer as process agent of the insurer under s. 624.422 and s. 626.937 shall be made ~~by serving a copy of the process upon the Chief Financial Officer or upon her or his assistant, deputy, or other person in charge of her or his office. Service may also be made by mail or~~ electronically as provided in s. 48.151(3) ~~s. 48.151~~. Upon receiving such service, the Chief Financial Officer shall retain a record of the process ~~copy~~ and promptly notify and make ~~forward one copy of~~ the process available through the department's secure online portal ~~by registered or certified mail or by other verifiable means~~, as provided under s. 624.307(9), to the person last designated by the insurer to receive the same, as provided under s. 624.422(2). For purposes

of this section, records shall ~~may~~ be retained electronically ~~as paper or electronic copies~~.

Section 29. Paragraph (f) of subsection (3) and paragraph (d) of subsection (4) of section 624.610, Florida Statutes, are amended to read:

624.610 Reinsurance.—

(3)

(f) If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) or paragraph (d) must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1.a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

b. To designate the Chief Financial Officer, pursuant to s. 48.151(3) ~~s. 48.151~~, as its true and lawful agent ~~attorney~~ upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

2. This paragraph is not intended to conflict with or

override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(4) Credit must be allowed when the reinsurance is ceded to an assuming insurer meeting the requirements of this subsection.

(d) The assuming insurer must, in a form specified by the commission:

1. Agree to provide prompt written notice and explanation to the office if the assuming insurer falls below the minimum requirements set forth in paragraph (b) or paragraph (c), or if any regulatory action is taken against it for serious noncompliance with applicable law of any jurisdiction.

2. Consent in writing to the jurisdiction of the courts of this state and to the designation of the Chief Financial Officer, pursuant to s. 48.151(3) ~~s. 48.151~~, as its true and lawful agent ~~attorney~~ upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer. This subparagraph does not limit or alter in any way the capacity of parties to a reinsurance agreement to agree to an alternative dispute resolution mechanism, except to the extent that such agreement is unenforceable under applicable insolvency or delinquency laws.

3. Consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal

successor which have been declared enforceable in the jurisdiction where the judgment was obtained.

4. Confirm in writing that it will include in each reinsurance agreement a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement, if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or enforcement of a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate.

5. Confirm in writing that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the office and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer if the assuming insurer enters into such a solvent scheme of arrangement. Such security must be consistent with subsection (5) or as specified by commission rule.

Section 30. Subsection (20) of section 626.015, Florida Statutes, is amended to read:

626.015 Definitions.—As used in this part:

(20) "Unaffiliated insurance agent" means a licensed

insurance agent, except a limited lines agent, who is self-appointed and who practices as an independent consultant in the business of analyzing or abstracting insurance policies, providing insurance advice or counseling, or making specific recommendations or comparisons of insurance products for a fee established in advance by written contract signed by the parties. An unaffiliated insurance agent may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents. A licensed adjuster who is also an unaffiliated insurance agent may obtain an adjuster appointment in order to adjust claims while holding an unaffiliated appointment on the agent license.

Section 31. Subsection (4) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(4) An applicant for a license under this chapter ~~as an agent, customer representative, adjuster, service representative, or reinsurance intermediary~~ must submit a set of the individual applicant's fingerprints, or, if the applicant is not an individual, a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, to the department and must pay the fingerprint processing fee

set forth in s. 624.501. Fingerprints must be processed in accordance with s. 624.34 and used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints must be taken by a law enforcement agency, designated examination center, or other department-approved entity. The department shall require all designated examination centers to have fingerprinting equipment and to take fingerprints from any applicant or prospective applicant who pays the applicable fee. The department may not approve an application for licensure as an agent, customer service representative, adjuster, service representative, or reinsurance intermediary if fingerprints have not been submitted.

Section 32. Paragraph (f) of subsection (2) of section 626.172, Florida Statutes, is amended to read:

626.172 Application for insurance agency license.—

(2) An application for an insurance agency license must be signed by an individual required to be listed in the application under paragraph (a). An insurance agency may permit a third party to complete, submit, and sign an application on the insurance agency's behalf; however, the insurance agency is responsible for ensuring that the information on the application is true and correct and is accountable for any misstatements or misrepresentations. The application for an insurance agency license must include:

(f) The fingerprints, submitted in accordance with s.

626.171(4), of each of the following:

1. A sole proprietor;

2. Each individual required to be listed in the application under paragraph (a); and

3. Each individual who directs or participates in the management or control of an incorporated agency whose shares are not traded on a securities exchange.

~~Fingerprints must be taken by a law enforcement agency or other entity approved by the department and must be accompanied by the fingerprint processing fee specified in s. 624.501. Fingerprints must be processed in accordance with s. 624.34. However,~~ Fingerprints need not be filed for an individual who is currently licensed and appointed under this chapter. This paragraph does not apply to corporations whose voting shares are traded on a securities exchange.

Section 33. Section 626.173, Florida Statutes, is created to read:

626.173 Insurance agency closure; cancellation of licenses.—

(1) If a licensed insurance agency permanently ceases the transacting of insurance or ceases the transacting of insurance for more than 31 days, the agent in charge, director of the agency, or other officer listed on the original application for licensure shall immediately cancel the insurance agency's

license by completing and submitting a form to notify the Bureau of Licensing of the Division of Insurance Agent and Agency Services within the department of the cancellation of the license.

(2) Within 30 days after the agency ceases the transacting of insurance, the agent in charge, director of the agency, or other officer listed on the original application for licensure shall:

(a) Notify all insurers by which the agency or agent in charge is appointed of the agency's cessation of operations, the date on which operations ceased, the identity of any agency or agent to which the agency's current book of business has been transferred, and the method by which agency records may be obtained during the time periods specified in ss. 626.561 and 626.748.

(b) Notify all policyholders currently insured by a policy written, produced, or serviced by the agency of the agency's cessation of operations; the date on which operations ceased; and the identity of the agency or agent to which the agency's current book of business has been transferred or, if no transfer has occurred, a statement directing the policyholder to contact the insurance company for assistance in locating a licensed agent to service the policy.

(c) Notify all premium finance companies through which active policies are financed of the agency's cessation of

operations, the date on which operations ceased, and the identity of the agency or agent to which the agency's current book of business has been transferred.

(d) Ensure that all funds held in a fiduciary capacity are properly distributed to the rightful owners.

(3)(a) The department or office may, in a proceeding initiated pursuant to chapter 120, impose an administrative fine against the agent in charge or director or officer of the agency found in the proceeding to have violated any provision of this section. A proceeding may not be initiated and a fine may not accrue until after the person has been notified in writing of the nature of the violation, has been afforded 10 business days to correct the violation, and has failed to do so.

(b) A fine imposed under this subsection may not exceed the amounts specified in s. 626.681 per violation.

(c) The department or office may, in addition to the imposition of an administrative fine under this subsection, also suspend or revoke the license of the licensee fined under this subsection.

(d) In imposing any administrative penalty or remedy provided under this subsection, the department or office shall take into account the appropriateness of the penalty with respect to the size of the financial resources and the good faith of the person charged, the gravity of the violation, the history of previous violations, and other matters as justice may

require.

Section 34. Subsection (3) of section 626.201, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

626.201 Investigation.—

(3) An inquiry or investigation of the applicant's qualifications, character, experience, background, and fitness must include submission of the applicant's fingerprints, in accordance with s. 626.171(4), to the Department of Law Enforcement and the Federal Bureau of Investigation and consideration of any state criminal records, federal criminal records, or local criminal records obtained from these agencies or from local law enforcement agencies.

(4) The expiration, nonrenewal, or surrender of a license under this chapter does not eliminate jurisdiction of the licensing authority to investigate and prosecute for a violation committed by the licensee while licensed under this chapter. The prosecution of any matter may be initiated or continued notwithstanding the withdrawal of a complaint.

Section 35. Section 626.202, Florida Statutes, is amended to read:

626.202 Fingerprinting requirements.—

(1) The requirements for completion and submission of fingerprints under this chapter in accordance with s. 626.171(4) are deemed to be met when an individual currently licensed under

this chapter seeks additional licensure and has previously submitted fingerprints to the department within the past 48 months. However, the department may require the individual to file fingerprints if it has reason to believe that an applicant or licensee has been found guilty of, or pleaded guilty or nolo contendere to, a felony or a crime related to the business of insurance in this state or any other state or jurisdiction.

(2) If there is a change in ownership or control of any entity licensed under this chapter, or if a new partner, officer, or director is employed or appointed, a set of fingerprints of the new owner, partner, officer, or director must be filed with the department or office within 30 days after the change. The acquisition of 10 percent or more of the voting securities of a licensed entity is considered a change of ownership or control. The fingerprints must be submitted in accordance with s. 626.171(4) ~~taken by a law enforcement agency or other department-approved entity and be accompanied by the fingerprint processing fee in s. 624.501~~.

Section 36. 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, Certified All Lines Adjuster (CALA) from Kaplan Financial Education, 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., 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 37. Subsection (6) of section 626.311, Florida Statutes, is amended to read:

626.311 Scope of license.—

(6) An agent who appoints his or her license as an unaffiliated insurance agent may not hold an appointment from an insurer for any license he or she holds, with the exception of an adjuster license; transact, solicit, or service an insurance contract on behalf of an insurer; interfere with commissions

received or to be received by an insurer-appointed insurance agent or an insurance agency contracted with or employing insurer-appointed insurance agents; or receive compensation or any other thing of value from an insurer, an insurer-appointed insurance agent, or an insurance agency contracted with or employing insurer-appointed insurance agents for any transaction or referral occurring after the date of appointment as an unaffiliated insurance agent. An unaffiliated insurance agent may continue to receive commissions on sales that occurred before the date of appointment as an unaffiliated insurance agent if the receipt of such commissions is disclosed when making recommendations or evaluating products for a client that involve products of the entity from which the commissions are received. An adjuster who holds an adjuster license and who is also an unaffiliated insurance agent may obtain an adjuster appointment while maintaining his or her unaffiliated insurance agent appointment and may adjust claims and receive compensation in accordance with the authority granted by the adjuster license and appointment.

Section 38. Paragraph (h) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines

insurance:

(h) Portable electronics insurance.—License for property insurance or inland marine insurance that covers only loss, theft, mechanical failure, malfunction, or damage for portable electronics.

1. The license may be issued only to:

a. Employees or authorized representatives of a licensed general lines agent; or

b. The lead business location of a retail vendor that sells portable electronics insurance. The lead business location must have a contractual relationship with a general lines agent.

2. Employees or authorized representatives of a licensee under subparagraph 1. may sell or offer for sale portable electronics coverage without being subject to licensure as an insurance agent if:

a. Such insurance is sold or offered for sale at a licensed location or at one of the licensee's branch locations if the branch location is appointed by the licensed lead business location or its appointing insurers;

b. The insurer issuing the insurance directly supervises or appoints a general lines agent to supervise the sale of such insurance, including the development of a training program for the employees and authorized representatives of vendors that are directly engaged in the activity of selling or offering the insurance; and

c. At each location where the insurance is offered, brochures or other written materials that provide the information required by this subparagraph are made available to all prospective customers. The brochures or written materials may include information regarding portable electronics insurance, service warranty agreements, or other incidental services or benefits offered by a licensee.

3. Individuals not licensed to sell portable electronics insurance may not be paid commissions based on the sale of such coverage. However, a licensee who uses a compensation plan for employees and authorized representatives which includes supplemental compensation for the sale of noninsurance products, in addition to a regular salary or hourly wages, may include incidental compensation for the sale of portable electronics insurance as a component of the overall compensation plan.

4. Brochures or other written materials related to portable electronics insurance must:

a. Disclose that such insurance may duplicate coverage already provided by a customer's homeowners insurance policy, renters insurance policy, or other source of coverage;

b. State that enrollment in insurance coverage is not required in order to purchase or lease portable electronics or services;

c. Summarize the material terms of the insurance coverage, including the identity of the insurer, the identity of the

supervising entity, the amount of any applicable deductible and how it is to be paid, the benefits of coverage, and key terms and conditions of coverage, such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

d. Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable if the customer fails to comply with equipment return requirements; and

e. State that an enrolled customer may cancel coverage at any time and that the person paying the premium will receive a refund of any unearned premium.

5. A licensed and appointed general lines agent is not required to obtain a portable electronics insurance license to offer or sell portable electronics insurance at locations already licensed as an insurance agency, but may apply for a portable electronics insurance license for branch locations not otherwise licensed to sell insurance.

6. A portable electronics license authorizes the sale of individual policies or certificates under a group or master insurance policy. The license also authorizes the sale of service warranty agreements covering only portable electronics to the same extent as if licensed under s. 634.419 or s. 634.420.

7. A licensee may bill and collect the premium for the

purchase of portable electronics insurance provided that:

a. If the insurance is included with the purchase or lease of portable electronics or related services, the licensee clearly and conspicuously discloses that insurance coverage is included with the purchase. Disclosure of the stand-alone cost of the premium for same or similar insurance must be made on the customer's bill and in any marketing materials made available at the point of sale. If the insurance is not included, the charge to the customer for the insurance must be separately itemized on the customer's bill.

b. Premiums are incidental to other fees collected, are maintained in a manner that is readily identifiable, and are accounted for and remitted to the insurer or supervising entity within 60 days of receipt. Licensees are not required to maintain such funds in a segregated account.

c. All funds received by a licensee from an enrolled customer for the sale of the insurance are considered funds held in trust by the licensee in a fiduciary capacity for the benefit of the insurer. Licensees may receive compensation for billing and collection services.

8. Notwithstanding any other provision of law, the terms for the termination or modification of coverage under a policy of portable electronics insurance are those set forth in the policy.

9. Notice or correspondence required by the policy, or

otherwise required by law, may be provided by electronic means if the insurer or licensee maintains proof that the notice or correspondence was sent. Such notice or correspondence may be sent on behalf of the insurer or licensee by the general lines agent appointed by the insurer to supervise the administration of the program. For purposes of this subparagraph, an enrolled customer's provision of an electronic mail address to the insurer or licensee is deemed to be consent to receive notices and correspondence by electronic means if a conspicuously located disclosure is provided to the customer indicating the same.

10. The ~~provisions of this chapter requiring submission of~~ fingerprints requirements in s. 626.171(4) do not apply to licenses issued to qualified entities under this paragraph.

11. A branch location that sells portable electronics insurance may, in lieu of obtaining an appointment from an insurer or warranty association, obtain a single appointment from the associated lead business location licensee and pay the prescribed appointment fee under s. 624.501 if the lead business location has a single appointment from each insurer or warranty association represented and such appointment applies to the lead business location and all of its branch locations. Branch location appointments shall be renewed 24 months after the initial appointment date of the lead business location and every 24 months thereafter. Notwithstanding s. 624.501, the renewal

fee applicable to such branch location appointments is $30 per appointment.

12. For purposes of this paragraph:

a. "Branch location" means any physical location in this state at which a licensee offers its products or services for sale.

b. "Portable electronics" means personal, self-contained, easily carried by an individual, battery-operated electronic communication, viewing, listening, recording, gaming, computing or global positioning devices, including cell or satellite phones, pagers, personal global positioning satellite units, portable computers, portable audio listening, video viewing or recording devices, digital cameras, video camcorders, portable gaming systems, docking stations, automatic answering devices, and other similar devices and their accessories, and service related to the use of such devices.

c. "Portable electronics transaction" means the sale or lease of portable electronics or a related service, including portable electronics insurance.

Section 39. Subsection (5) of section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(5) If the department or office, after investigation, has reason to believe that an individual may have been found guilty of or pleaded guilty or nolo contendere to a felony or a crime

related to the business of insurance in this or any other state or jurisdiction, the department or office may require the individual to file with the department or office a complete set of his or her fingerprints, in accordance with s. 626.171(4), which shall be accompanied by the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be taken by an authorized law enforcement agency or other department-approved entity.

Section 40. Paragraph (d) of subsection (2) of section 626.8411, Florida Statutes, is amended, and paragraph (f) is added to subsection (1) of that section, to read:

626.8411 Application of Florida Insurance Code provisions to title insurance agents or agencies.—

(1) The following provisions applicable to general lines agents or agencies also apply to title insurance agents or agencies:

(f) Section 626.172(2)(f), relating to fingerprints.

(2) The following provisions of part I do not apply to title insurance agents or title insurance agencies:

(d) Section 626.172, except for paragraph (2)(f) of that section, relating to agent in full-time charge.

Section 41. Paragraph (b) of subsection (1) of section 626.8412, Florida Statutes, is amended to read:

626.8412 License and appointments required.—

(1) Except as otherwise provided in this part:

(b) A title insurance agent may not sell a title insurance policy issued by an insurer for which the agent and the agency do ~~does~~ not hold a current appointment.

Section 42. Paragraph (a) of subsection (3) of section 626.8417, Florida Statutes, is amended to read:

626.8417 Title insurance agent licensure; exemptions.—

(3) The department may not grant or issue a license as a title insurance agent to an individual who is found by the department to be untrustworthy or incompetent, who does not meet the qualifications for examination specified in s. 626.8414, or who does not meet the following qualifications:

(a) Within the 4 years immediately preceding the date of the application for license, the applicant must have completed a 40-hour ~~classroom~~ course in title insurance, 3 hours of which are on the subject matter of ethics, as approved by the department, or must have had at least 12 months of experience in responsible title insurance duties, under the supervision of a licensed title insurance agent, title insurer, or attorney while working in the title insurance business as a substantially full-time, bona fide employee of a title insurance agency, title insurance agent, title insurer, or attorney who conducts real estate closing transactions and issues title insurance policies but who is exempt from licensure under subsection (4). If an applicant's qualifications are based upon the periods of employment at responsible title insurance duties, the applicant

must submit, with the license application, an affidavit of the applicant and of the employer affirming the period of such employment, that the employment was substantially full time, and giving a brief abstract of the nature of the duties performed by the applicant.

Section 43. Section 626.8421, Florida Statutes, is amended to read:

626.8421 Number of appointments permitted or required.—A title agent and a title agency shall be required to have a separate appointment as to each insurer by which they are ~~he or she is~~ appointed as agents ~~agent~~. As a part of each appointment there shall be a certified statement or affidavit of an appropriate officer or official of the appointing insurer stating that to the best of the insurer's knowledge and belief the applicant, or its principals in the case of a corporation or other legal entity, has met the requirements of s. 626.8417.

Section 44. Subsections (1) and (2) of section 626.843, Florida Statutes, are amended to read:

626.843 Renewal, continuation, reinstatement, termination of title insurance agent's and title insurance agency's appointments ~~appointment~~.—

(1) Appointments ~~the appointment~~ of a title insurance agent and a title insurance agency shall continue in force until suspended, revoked, or otherwise terminated, but subject to a renewed request filed by the insurer every 24 months after the

original issue dates ~~date~~ of the appointments ~~appointment~~, accompanied by payments ~~payment~~ of the renewal appointment fees ~~fee~~ and taxes as prescribed in s. 624.501.

(2) Title insurance agent and title insurance agency appointments shall be renewed pursuant to s. 626.381 for insurance representatives in general.

Section 45. Subsection (1) of section 626.8433, Florida Statutes, is amended to read:

626.8433 Filing of reasons for terminating appointments ~~appointment~~ of title insurance agent and title insurance agency; confidential information.—

(1) Any title insurer that is terminating the appointment of a title insurance agent or title insurance agency, whether such termination is by direct action of the appointing title insurer or by failure to renew or continue the appointment as provided, shall file with the department a statement of the reasons, if any, for, and the facts relative to, such termination.

Section 46. Section 626.8447, Florida Statutes, is amended to read:

626.8447 Effect of suspension or revocation upon other licensees, appointees.—In case of the suspension or revocation of the license and appointment of any title insurance agent or title insurance agency, the licenses and appointments of all other title insurance agents who knowingly were parties to the

act that ~~which~~ formed the ground for such suspension or revocation may likewise be suspended or revoked for the same period as that of the offending title insurance agent or title insurance agency, but such suspension or revocation does ~~shall~~ not prevent any title insurance agent, except the one whose license and appointment was first suspended or revoked, from being issued an appointment for some other title insurer.

Section 47. Paragraph (d) of subsection (10) of section 626.854, Florida Statutes, is redesignated as paragraph (f), and a new paragraph (d) and paragraph (e) are added to subsection (10) of that section, to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(10)

(d) Public adjuster compensation may not be based on amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster compensation may not be increased based on a claim being resolved by litigation.

Section 48. Section 626.8561, Florida Statutes, is amended to read:

626.8561 "Public adjuster apprentice" defined.—The term "public adjuster apprentice" means a person licensed as an all-lines adjuster who:

(1) Is appointed and employed or contracted by ~~a public adjuster or~~ a public adjusting firm;

(2) Assists the ~~public adjuster or~~ public adjusting firm in ascertaining and determining the amount of any claim, loss, or damage payable under an insurance contract, or who undertakes to effect settlement of such claim, loss, or damage; and

(3) Satisfies the requirements of s. 626.8651.

Section 49. Paragraph (e) of subsection (1) and subsection (2) of section 626.865, Florida Statutes, are amended to read:

626.865 Public adjuster's qualifications, bond.—

(1) The department shall issue a license to an applicant for a public adjuster's license upon determining that the applicant has paid the applicable fees specified in s. 624.501 and possesses the following qualifications:

(e) Has been licensed and appointed in this state as a nonresident public adjuster on a continual basis for the previous 6 months, or has been licensed as an all-lines adjuster, and has been appointed on a continual basis for the

previous 6 months as a public adjuster apprentice under s. 626.8561, as an independent adjuster under s. 626.855, or as a company employee adjuster under s. 626.856.

(2) At the time of application for license as a public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact such business in this state, in the amount of $50,000, conditioned for the faithful performance of his or her duties as a public adjuster under the license for which the applicant has applied, and thereafter maintain the bond unimpaired throughout the existence of the license ~~and for at least 1 year after termination of the license~~.

(a) The bond must ~~shall~~ be in favor of the department and must ~~shall~~ specifically authorize recovery by the department of the damages sustained in case the licensee is guilty of fraud or unfair practices in connection with his or her business as public adjuster.

(b) The bond must remain in effect for 1 year after the expiration or termination of the license.

(c) The aggregate liability of the surety for all such damages may not ~~shall in no event~~ exceed the amount of the bond. The ~~Such~~ bond may ~~shall~~ not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

Section 50. Paragraph (a) of subsection (1) and subsection

(3) of section 626.8651, Florida Statutes, are amended to read:

626.8651 Public adjuster apprentice appointment; qualifications.—

(1)(a) The department shall issue an appointment as a public adjuster apprentice to a licensee who:

1. Is licensed as an all-lines adjuster under s. 626.866;

2. Has filed with the department a bond executed and issued by a surety insurer that is authorized to transact such business in this state in the amount of $50,000, which is conditioned upon the faithful performance of his or her duties as a public adjuster apprentice; and

3. Maintains such bond unimpaired throughout the existence of the appointment. The bond must remain in effect for 1 year after the expiration or termination of the license ~~and for at least 1 year after termination of the appointment~~.

(3) A public adjuster apprentice has the same authority as the licensed public adjuster or public adjusting firm that employs the apprentice except that an apprentice may not execute contracts for the services of a public adjuster or public adjusting firm. An individual may not be, act as, or hold himself or herself out to be a public adjuster apprentice unless the individual is licensed as an all-lines adjuster and holds a current appointment by a licensed ~~public all-lines adjuster or a~~ public adjusting firm that has designated with the department a primary ~~employs a licensed public~~ adjuster as required by s.

626.8695.

Section 51. Section 626.8696, Florida Statutes, is amended to read:

626.8696 Application for adjusting firm license.—

(1) The application for an adjusting firm license must include:

(a) The name of each majority owner, partner, officer, and director of the adjusting firm.

(b) The resident address of each person required to be listed in the application under paragraph (a).

(c) The name of the adjusting firm and its principal business address.

(d) The location of each adjusting firm office and the name under which each office conducts or will conduct business.

(e) The name and license number of the designated primary adjuster for each adjusting firm location as required in s. 626.8695.

(f) The fingerprints of each individual required to be listed in the application under paragraph (a), filed in accordance with s. 626.171(4). However, fingerprints need not be filed for an individual who is currently licensed and appointed under this chapter.

(g) ~~(e)~~ Any additional information that the department requires.

(2) An application for an adjusting firm license must be

signed by one of the individuals required to be listed in the application under paragraph (1)(a) ~~each owner of the firm. If the firm is incorporated, the application must be signed by the president and secretary of the corporation~~.

~~(3) Each application must be accompanied by payment of any applicable fee as prescribed in s. 624.501.~~

~~(4) License fees are not refundable.~~

~~(5) An adjusting firm required to be licensed pursuant to s. 626.8695 must remain so licensed for a period of 3 years from the date of licensure, unless the license is suspended or revoked. The department may suspend or revoke the adjusting firm's authority to do business for activities occurring during the time the firm is licensed, regardless of whether the licensing period has terminated.~~

Section 52. Subsection (3) of section 626.8732, Florida Statutes, is amended to read:

626.8732 Nonresident public adjuster's qualifications, bond.—

(3) At the time of application for license as a nonresident public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact surety business in this state, in the amount of $50,000, conditioned for the faithful performance of his or her duties as a nonresident public adjuster under the license applied for. Thereafter, the applicant shall maintain

the bond unimpaired throughout the existence of the license and for 1 year after the expiration or termination of the license.

(a) The bond must be in favor of the department and must specifically authorize recovery by the department of the damages sustained if the licensee commits fraud or unfair practices in connection with his or her business as nonresident public adjuster.

(b) The aggregate liability of the surety for all the damages may not exceed the amount of the bond. The bond may not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

Section 53. Paragraph (a) of subsection (2) of section 626.8734, Florida Statutes, is amended to read:

626.8734 Nonresident all-lines adjuster license qualifications.—

(2) The applicant must furnish the following with his or her application:

(a) A complete set of his or her fingerprints in accordance with s. 626.171(4). ~~The applicant's fingerprints must be certified by an authorized law enforcement officer.~~

Section 54. Section 626.906, Florida Statutes, is amended to read:

626.906 Acts constituting Chief Financial Officer as process agent.—Any of the following acts in this state, effected by mail or otherwise, by an unauthorized foreign insurer, alien

insurer, or person representing or aiding such an insurer is equivalent to and shall constitute an appointment by such insurer or person representing or aiding such insurer of the Chief Financial Officer to be its true and lawful agent ~~attorney~~, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary, arising out of any such contract of insurance; and any such act shall be signification of the insurer's or person's agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer or person representing or aiding such insurer:

(1) The issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein;

(2) The solicitation of applications for such contracts;

(3) The collection of premiums, membership fees, assessments, or other considerations for such contracts; or

(4) Any other transaction of insurance.

Section 55. Subsection (4) of section 626.912, Florida Statutes, is amended to read:

626.912 Exemptions from ss. 626.904-626.911.—The provisions of ss. 626.904-626.911 do not apply to any action, suit, or proceeding against any unauthorized foreign insurer, alien insurer, or person representing or aiding such an insurer

arising out of any contract of insurance:

(4) Issued under and in accordance with the Surplus Lines Law, when such insurer or person representing or aiding such insurer enters a general appearance or when such contract of insurance contains a provision designating the Chief Financial Officer or designating a Florida resident agent to be the true and lawful agent ~~attorney~~ of such unauthorized insurer or person representing or aiding such insurer upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or person representing or aiding such insurer or beneficiary arising out of any such contract of insurance; and service of process effected on such Chief Financial Officer or such resident agent shall be deemed to confer complete jurisdiction over such unauthorized insurer or person representing or aiding such insurer in such action.

Section 56. Subsections (3) and (4) of section 626.937, Florida Statutes, are amended to read:

626.937 Actions against insurer; service of process.—

(3) Each unauthorized insurer requesting eligibility pursuant to s. 626.918 shall file with the department its appointment of the Chief Financial Officer, on a form as furnished by the department, as its agent ~~attorney~~ to receive service of all legal process issued against it in any civil action or proceeding in this state, and agreeing that process so served shall be valid and binding upon the insurer. The

appointment shall be irrevocable, shall bind the insurer and any successor in interest as to the assets or liabilities of the insurer, and shall remain in effect as long as there is outstanding in this state any obligation or liability of the insurer resulting from its insurance transactions therein.

(4) At the time of such appointment of the Chief Financial Officer as its process agent, the insurer shall file with the department designation of the name and e-mail address of the person to whom process against it served upon the Chief Financial Officer is to be made available through the department's secure online portal ~~forwarded~~. The insurer may change the designation at any time by a new filing.

Section 57. Subsection (5) of section 626.9953, Florida Statutes, is amended to read:

626.9953 Qualifications for registration; application required.—

(5) An applicant must submit a set of his or her fingerprints in accordance with s. 626.171(4) ~~to the department and pay the processing fee established under s. 624.501(23)~~. The department shall submit the applicant's fingerprints to the Department of Law Enforcement for processing state criminal history records checks and local criminal records checks through local law enforcement agencies and for forwarding to the Federal Bureau of Investigation for national criminal history records checks. The fingerprints shall be taken by a law enforcement

agency, a designated examination center, or another department-approved entity. The department may not approve an application for registration as a navigator if fingerprints have not been submitted.

Section 58. Paragraphs (e) and (f) are added to subsection (4) of section 633.135, Florida Statutes, to read:

633.135 Firefighter Assistance Grant Program.—

(4) Funds shall be used to:

(e) Purchase other equipment and tools that improve firesafety and fire rescue capabilities for firefighters.

(f) Purchase protective clothing and equipment compliant with NFPA 1977, "Standard on Protective Clothing and Equipment for Wildland Fire Fighting and Urban Interface Fire Fighting."

Section 59. Subsections (6) through (9) of section 633.216, Florida Statutes, are renumbered as subsections (5) through (8), respectively, and subsection (4) and present subsection (5) of that section are amended, to read:

633.216 Inspection of buildings and equipment; orders; firesafety inspection training requirements; certification; disciplinary action.—The State Fire Marshal and her or his agents or persons authorized to enforce laws and rules of the State Fire Marshal shall, at any reasonable hour, when the State Fire Marshal has reasonable cause to believe that a violation of this chapter or s. 509.215, or a rule adopted thereunder, or a minimum firesafety code adopted by the State Fire Marshal or a

local authority, may exist, inspect any and all buildings and structures which are subject to the requirements of this chapter or s. 509.215 and rules adopted thereunder. The authority to inspect shall extend to all equipment, vehicles, and chemicals which are located on or within the premises of any such building or structure.

(4) Every firesafety inspector certificate is valid for a period of 4 years from the date of issuance. Renewal of certification is subject to the affected person's completing proper application for renewal and meeting all of the requirements for renewal as established under this chapter or by rule adopted under this chapter, which must include completion of at least 54 hours during the preceding 4-year period of continuing education as required by the rule of the department ~~or, in lieu thereof, successful passage of an examination as established by the department~~.

~~(5) A previously certified firesafety inspector whose certification has lapsed for 8 years or more must repeat the fire safety inspector training as specified by the division.~~

Section 60. Paragraph (b) of subsection (4) and paragraphs (a) and (c) of subsection (6) of section 633.408, Florida Statutes, are amended to read:

633.408 Firefighter and volunteer firefighter training and certification.—

(4) The division shall issue a Firefighter Certificate of

Compliance to an individual who does all of the following:

(b) Passes the Minimum Standards Course certification ~~examination~~ within 12 months after completing the required courses.

(6)(a) The division may issue a Special Certificate of Compliance to an individual who does all of the following:

1. Satisfactorily completes the course established by rule by the division and successfully passes any examination corresponding to such course ~~in paragraph (1)(b)~~ to obtain a Special Certificate of Compliance.

~~2. Passes the examination established in paragraph (1)(b) to obtain a Special Certificate of Compliance.~~

2.~~3.~~ Possesses the qualifications in s. 633.412.

~~(c) In order to retain a Special Certificate of Compliance, every 4 years an individual must:~~

~~1. Be active as a firefighter;~~

~~2. Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the division; or~~

~~3. Within 6 months before the 4-year period expires, successfully complete a Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training as prescribed by rule.~~

Section 61. Subsections (5), (6), and (7) of section 633.414, Florida Statutes, are renumbered as subsections (4), (5), and (6) respectively, and subsection (1) and present subsection (4) of that section are amended, to read:

633.414 Retention of firefighter and volunteer firefighter certifications.—

(1) In order for a firefighter to retain her or his Firefighter Certificate of Compliance or Special Certificate of Compliance, every 4 years he or she must meet the requirements for renewal provided in this chapter and by rule, which must include at least one of the following:

(a) Be active as a firefighter. As used in this section, the term "active" means being employed as a firefighter or providing service as a volunteer firefighter as evidenced by the individual's name appearing on a fire service provider's employment roster in the Florida State Fire College database or a letter by the fire service provider attesting to dates of employment.

(b) Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the division.

(c) Before the expiration of the certificate ~~Within 6 months before the 4-year period expires~~, successfully complete a

Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training to be prescribed by rule.

(d) Before the expiration of the certificate ~~Within 6 months before the 4-year period expires~~, successfully retake and pass the Minimum Standards Course examination pursuant to s. 633.408.

~~(4) For the purposes of this section, the term "active" means being employed as a firefighter or providing service as a volunteer firefighter for a cumulative period of 6 months within a 4-year period.~~

The 4-year period may, in the discretion of the department, be extended to 12 months after discharge from military service if the military service does not exceed 3 years, but in no event more than 6 years from the date of issue or renewal, if applicable, for an honorably discharged veteran of the United States Armed Forces or the spouse of such a veteran. A qualified individual must provide a copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document that indicates such member is currently in good standing or such veteran is honorably discharged.

Section 62. Subsection (4) of section 648.34, Florida Statutes, is amended to read:

648.34 Bail bond agents; qualifications.—

(4) The applicant shall furnish, with his or her application, a complete set of his or her fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. ~~The applicant's fingerprints shall be certified by an authorized law enforcement officer.~~ The department shall not authorize an applicant to take the required examination until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 63. Subsection (4) of section 648.355, Florida Statutes, is amended to read:

648.355 Temporary limited license as limited surety agent or professional bail bond agent; pending examination.—

(4) The applicant shall furnish, with the application for temporary license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. ~~The applicant's fingerprints shall be certified by an authorized law enforcement officer.~~ The department shall not issue a temporary license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or

nonexistence of a criminal history report based on the applicant's fingerprints.

Section 64. Subsection (4) is added to section 648.46, Florida Statutes, to read:

648.46 Procedure for disciplinary action against licensees.—

(4) The expiration, nonrenewal, or surrender of licensure under this chapter does not eliminate the jurisdiction of the licensing authority to investigate and prosecute for a violation committed by a licensee while licensed under this chapter. The prosecution of any matter may be initiated or continued notwithstanding the withdrawal of a complaint.

Section 65. Paragraph (d) of subsection (2) and paragraphs (b), (c), and (e) of subsection (3) of section 766.105, Florida Statutes, are amended, and paragraph (i) is added to subsection (3) and subsection (4) is added to that section, to read:

766.105 Florida Patient's Compensation Fund.—

(2) COVERAGE.—

(d)1. Any health care provider who participates in the fund and who does not meet the provisions of paragraph (b) shall not be covered by the fund.

2. Annually, the Agency for Health Care Administration shall require documentation by each hospital that such hospital is in compliance, and will remain in compliance, with the provisions of this section. ~~The agency shall review the~~

~~documentation and then deliver the documentation to the board of governors. At least 60 days before the time a license will be issued or renewed, the agency shall request from the board of governors a certification that each hospital is in compliance with the provisions of this section. The board of governors shall not be liable under the law for any erroneous certification. The agency may not issue or renew the license of any hospital which has not been certified by the board of governors. The license of any hospital that fails to remain in compliance or fails to provide such documentation shall be revoked or suspended by the agency.~~

(3) THE FUND.—

(b) Fund administration and operation.—

1. The fund shall operate subject to the supervision and approval of the Chief Financial Officer or his or her designee ~~a board of governors consisting of a representative of the insurance industry appointed by the Chief Financial Officer, an attorney appointed by The Florida Bar, a representative of physicians appointed by the Florida Medical Association, a representative of physicians' insurance appointed by the Chief Financial Officer, a representative of physicians' self-insurance appointed by the Chief Financial Officer, two representatives of hospitals appointed by the Florida Hospital Association, a representative of hospital insurance appointed by the Chief Financial Officer, a representative of hospital self-~~

~~insurance appointed by the Chief Financial Officer, a representative of the osteopathic physicians' or podiatric physicians' insurance or self-insurance appointed by the Chief Financial Officer, and a representative of the general public appointed by the Chief Financial Officer. The board of governors shall, during the first meeting after June 30 of each year, choose one of its members to serve as chair of the board and another member to serve as vice chair of the board. The members of the board shall be appointed to serve terms of 4 years, except that the initial appointments of a representative of the general public by the Chief Financial Officer, an attorney by The Florida Bar, a representative of physicians by the Florida Medical Association, and one of the two representatives of the Florida Hospital Association shall be for terms of 3 years; thereafter, such representatives shall be appointed for terms of 4 years. Subsequent to initial appointments for 4-year terms, the representative of the osteopathic physicians' or podiatric physicians' insurance or self-insurance appointed by the Chief Financial Officer and the representative of hospital self-insurance appointed by the Chief Financial Officer shall be appointed for 2-year terms; thereafter, such representatives shall be appointed for terms of 4 years. Each appointed member may designate in writing to the chair an alternate to act in the member's absence or incapacity. A member of the board, or the member's alternate, may be reimbursed from the assets of the~~

~~fund for expenses incurred by him or her as a member, or alternate member, of the board and for committee work, but he or she may not otherwise be compensated by the fund for his or her service as a board member or alternate.~~

2. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the fund or its agents or employees, professional advisers or consultants, the Chief Financial Officer or his or her designee ~~members of the board of governors or their alternates~~, or the Department of Financial Services or the Office of Insurance Regulation of the Financial Services Commission or their representatives for any action taken by them in the performance of their powers and duties pursuant to this section.

(c) Powers of the fund.—The fund has the power to:

1. Sue and be sued, and appear and defend, in all actions and proceedings in its name to the same extent as a natural person.

2. Adopt, change, amend, and repeal a plan of operation, not inconsistent with law, for the regulation and administration of the affairs of the fund. The plan and any changes thereto shall be filed with the Office of Insurance Regulation of the Financial Services Commission and are all subject to its approval before implementation by the fund. All fund members, board members, and employees shall comply with the plan of operation.

3. Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the fund is created.

4. Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this section.

5. Employ or retain such persons as are necessary to perform the administrative and financial transactions and responsibilities of the fund and to perform other necessary or proper functions unless prohibited by law.

6. Take such legal action as may be necessary to avoid payment of improper claims.

7. Indemnify any ~~employee, agent, member of the board of governors or his or her alternate, or~~ person acting on behalf of the fund in an official capacity, for expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with any action, suit, or proceeding, including any appeal thereof, arising out of his or her capacity in acting on behalf of the fund, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the fund and, with respect to any criminal action or proceeding, he or she had reasonable cause to believe his or her conduct was lawful.

(e) Fund accounting and audit.—

1. Money shall be withdrawn from the fund only upon a voucher as authorized by the Chief Financial Officer or his or

her designee ~~board of governors~~.

2. All books, records, and audits of the fund shall be open for reasonable inspection to the general public, except that a claim file in possession of the fund, fund members, and their insurers is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until termination of litigation or settlement of the claim, although medical records and other portions of the claim file may remain confidential and exempt as otherwise provided by law. Any book, record, document, audit, or asset acquired by, prepared for, or paid for by the fund is subject to the authority of the Chief Financial Officer or his or her designee ~~board of governors~~, which shall be responsible therefor.

3. Persons authorized to receive deposits, issue vouchers, or withdraw or otherwise disburse any fund moneys shall post a blanket fidelity bond in an amount reasonably sufficient to protect fund assets. The cost of such bond shall be paid from the fund.

4. Annually, the fund shall furnish, upon request, audited financial reports to any fund participant and to the Office of Insurance Regulation and the Joint Legislative Auditing Committee. The reports shall be prepared in accordance with accepted accounting procedures and shall include income and such other information as may be required by the Office of Insurance Regulation or the Joint Legislative Auditing Committee.

5. Any money held in the fund shall be invested in interest-bearing investments ~~by the board of governors of the fund as administrator~~. However, in no case may any such money be invested in the stock of any insurer participating in the Joint Underwriting Association authorized by s. 627.351(4) or in the parent company of, or company owning a controlling interest in, such insurer. All income derived from such investments shall be credited to the fund.

6. Any health care provider participating in the fund may withdraw from such participation only at the end of a fiscal year; however, such health care provider shall remain subject to any assessment or any refund pertaining to any year in which such member participated in the fund.

(i) Dissolution of the fund.—The fund shall operate subject to the supervision of the Chief Financial Officer or his or her designee, pursuant to the policies and procedures and under the auspices of the Department of Financial Services' Division of Rehabilitation and Liquidation, until the department executes a legal dissolution of the fund on or before December 31, 2023. Before the legal dissolution of the fund, the Department of Financial Services must:

1. Obtain all existing records and retain necessary records of the fund pursuant to law.

2. Identify all remaining property held by the fund and attempt to return such property to its owners and, for property

that cannot be returned to the owner, transfer such property to the Department of Financial Services' Division of Unclaimed Property.

3. Make a final accounting of the finances of the fund.

4. Ensure that the fund has met all its obligations pursuant to structured settlements, annuities, or other instruments established to pay covered claims and, if the fund has not done so, attempt to meet such obligations before final and complete dissolution of the fund.

5. Sell or otherwise dispose of all physical assets of the fund.

6. Execute a legal dissolution of the fund.

7. Transfer any remaining money or assets of the fund to the Chief Financial Officer for deposit in the General Revenue Fund.

(4) REPEAL.—This section is repealed January 1, 2024.

Section 66. Paragraph (b) of subsection (1) of section 945.6041, Florida Statutes, is amended to read:

945.6041 Inmate medical services.—

(1) As used in this section, the term:

(b) "Health care provider" means:

1. A hospital licensed under chapter 395.

2. A physician or physician assistant licensed under chapter 458.

3. An osteopathic physician or physician assistant

licensed under chapter 459.

4. A podiatric physician licensed under chapter 461.

5. A health maintenance organization certificated under part I of chapter 641.

6. An ambulatory surgical center licensed under chapter 395.

7. A professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., and 4. for professional activity.

8. Other medical facility.

a. As used in this subparagraph, the term "other medical facility" means:

(I) A facility the primary purpose of which is to provide human medical diagnostic services, or a facility providing nonsurgical human medical treatment which discharges patients on the same working day that the patients are admitted; and

(II) A facility that is not part of a hospital.

b. The term does not include a facility existing for the primary purpose of performing terminations of pregnancy, or an office maintained by a physician or dentist for the practice of medicine ~~has the same meaning as provided in s. 766.105~~.

Section 67. Paragraph (a) of subsection (1) of section 985.6441, Florida Statutes, is amended to read:

985.6441 Health care services.—

(1) As used in this section, the term:

(a) "Health care provider" means:

1. A hospital licensed under chapter 395.

2. A physician or physician assistant licensed under chapter 458.

3. An osteopathic physician or physician assistant licensed under chapter 459.

4. A podiatric physician licensed under chapter 461.

5. A health maintenance organization certificated under part I of chapter 641.

6. An ambulatory surgical center licensed under chapter 395.

7. A professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., and 4. for professional activity.

8. Other medical facility.

a. As used in this subparagraph, the term "other medical facility" means:

(I) A facility the primary purpose of which is to provide human medical diagnostic services, or a facility providing nonsurgical human medical treatment which discharges patients on the same working day that the patients are admitted; and

(II) A facility that is not part of a hospital.

b. The term does not include a facility existing for the

primary purpose of performing terminations of pregnancy, or an office maintained by a physician or dentist for the practice of medicine ~~has the same meaning as provided in s. 766.105~~.

Section 68. All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, and administrative rules relating to the Stop Inmate Fraud Program within the Department of Financial Services are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Economic Opportunity.

Section 69. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022.

COMMERCE COMMITTEE

CS/CS/HB 959 by Rep. LaMarca
Department of Financial Services

AMENDMENT SUMMARY
February 17, 2022

Amendment 1 by Rep. LaMarca (Line 756):

- Makes changes to sections related to the closure of an insurance agency, to conform to the language of CS/SB 1874;
- Makes clarifying changes related to compensation for public adjusters;
- Amends the definition of “employer” in workers’ compensation law;
- Eliminates a proposed amendment that would have modified the calculation of reimbursements to health care providers in the workers’ compensation system;
- Amends penalties that may be imposed for violations of laws related to fire protection systems; and
- Makes minor technical and conforming changes to match the language of CS/SB 1874 throughout the bill.

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: Commerce Committee
Representative LaMarca offered the following:

Amendment (with title amendment)

Remove lines 756-2337 and insert:

of any person. The term ~~"Employer"~~ also includes ~~employment agencies,~~ employee leasing companies, as defined in s. 468.520(4), and employment agencies ~~similar agents who~~ that provide their own employees to other persons. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105, 440.106, and 440.107.

Section 14. Effective January 1, 2023, subsections (11) through (15) of section 440.05, Florida Statutes, are renumbered as subsections (10) through (14), respectively, subsections (3) and (4) and present subsections (10) and (12) of that section are amended, to read:

440.05 Election of exemption; revocation of election; notice; certification.—

(3) The notice of election to be exempt must be electronically submitted to the department by the officer of a corporation who is allowed to claim an exemption as provided by this chapter and must list the name, date of birth, valid driver license number or Florida identification card number, and all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption, the registration number of the corporation filed with the Division of Corporations of the Department of State, and the percentage of ownership evidencing the required ownership under this chapter. The notice of election to be exempt must identify each corporation that employs the person electing the exemption and must list the ~~social security number or~~ federal tax identification number of each such employer and the additional documentation required by this section. In addition, the notice of election to be exempt must provide that the officer electing an exemption is not entitled to benefits under this chapter, must provide that the election does not exceed exemption limits

for officers provided in s. 440.02, ~~and~~ must certify that any employees of the corporation whose officer elects an exemption are covered by workers' compensation insurance, and must certify that the officer electing an exemption has completed an online workers' compensation coverage and compliance tutorial developed by the department. Upon receipt of the notice of the election to be exempt, receipt of all application fees, and a determination by the department that the notice meets the requirements of this subsection, the department shall issue a certification of the election to the officer, unless the department determines that the information contained in the notice is invalid. The department shall revoke a certificate of election to be exempt from coverage upon a determination by the department that the person does not meet the requirements for exemption or that the information contained in the notice of election to be exempt is invalid. The certificate of election must list the name of the corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new or different corporation that is not listed on the certificate of election. Upon written request from a workers' compensation carrier, the department shall send thereafter an electronic notification to the carrier identifying each of its policyholders for which a notice of election to be exempt has been issued or for which a notice of revocation to be exempt has been received ~~A notice of the certificate of election~~

~~must be sent to each workers' compensation carrier identified in the request for exemption~~. Upon filing a notice of revocation of election, an officer who is a subcontractor or an officer of a corporate subcontractor must notify her or his contractor. ~~Upon revocation of a certificate of election of exemption by the department, the department shall notify the workers' compensation carriers identified in the request for exemption.~~

(4) The notice of election to be exempt from the provisions of this chapter must contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive the department or any employer or employee, insurance company, or any other person, files a notice of election to be exempt containing any false or misleading information is guilty of a felony of the third degree." Each person filing a notice of election to be exempt shall personally sign the notice and attest that he or she has reviewed, understands, and acknowledges the foregoing notice. The certificate of election to be exempt must contain the following notice: "This certificate of election to be exempt is NOT a license issued by the Department of Business and Professional Regulation (DBPR). To determine if the certificateholder is required to have a license to perform work or to verify the license of the certificateholder, go to (insert DBPR's website address for where to find this information)."

~~(10) Each officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter shall maintain business records as specified by the department by rule.~~

(11)~~(12)~~ Certificates of election to be exempt issued under subsection (3) ~~shall~~ apply only to the corporate officer named on the notice of election to be exempt ~~and apply only within the scope of the business or trade listed on the notice of election to be exempt~~.

Section 15. Effective January 1, 2023, paragraphs (a) and (d) of subsection (7) of section 440.107, Florida Statutes, are amended to read:

440.107 Department powers to enforce employer compliance with coverage requirements.—

(7)(a) Whenever the department determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to secure the payment of workers' compensation required by this chapter or to produce the required business records under subsection (5) within 21 ~~10 business~~ days after receipt of the written request of the department, such failure shall be deemed an immediate serious danger to public health, safety, or welfare sufficient to justify service by the department of a stop-work order on the employer, requiring the cessation of all business operations. If the department makes such a determination, the

department shall issue a stop-work order within 72 hours. The order shall take effect when served upon the employer or, for a particular employer worksite, when served at that worksite. In addition to serving a stop-work order at a particular worksite which shall be effective immediately, the department shall immediately proceed with service upon the employer which shall be effective upon all employer worksites in the state for which the employer is not in compliance. A stop-work order may be served with regard to an employer's worksite by posting a copy of the stop-work order in a conspicuous location at the worksite. Information related to an employer's stop-work order shall be made available on the division's website~~, be updated daily,~~ and remain on the website for at least 5 years. The order shall remain in effect until the department issues an order releasing the stop-work order upon a finding that the employer has come into compliance with the coverage requirements of this chapter and has paid any penalty assessed under this section. The department may issue an order of conditional release from a stop-work order to an employer upon a finding that the employer has complied with the coverage requirements of this chapter, paid a penalty of $1,000 as a down payment, and agreed to remit periodic payments of the remaining penalty amount pursuant to a payment agreement schedule with the department or pay the remaining penalty amount in full. An employer may not enter into a payment agreement schedule unless the employer has fully paid

any previous penalty assessed under this section. If an order of conditional release is issued, failure by the employer to pay the penalty in full or enter into a payment agreement with the department within 21 ~~28~~ days after service of the first penalty assessment calculation ~~stop-work order~~ upon the employer, or to meet any term or condition of such penalty payment agreement, shall result in the immediate reinstatement of the stop-work order and the entire unpaid balance of the penalty shall become immediately due.

(d)1. In addition to any penalty, stop-work order, or injunction, the department shall assess against an ~~any~~ employer who has failed to secure the payment of compensation as required by this chapter a penalty equal to 2 times the amount the employer would have paid in premium when applying approved manual rates to the employer's payroll during periods for which it failed to secure the payment of workers' compensation required by this chapter within the preceding 12-month ~~2-year~~ period or $1,000, whichever is greater. However, for an employer who is issued a stop-work order for materially understating or concealing payroll or has been previously issued a stop-work order or order of penalty assessment, the preceding 24-month period shall be used to calculate the penalty as specified in this subparagraph.

a. For an employer ~~employers~~ who has ~~have~~ not been previously issued a stop-work order or order of penalty

assessment, the department must allow the employer to receive a credit for the initial payment of the estimated annual workers' compensation policy premium, as determined by the carrier, to be applied to the penalty. Before applying the credit to the penalty, the employer must provide the department with documentation reflecting that the employer has secured the payment of compensation pursuant to s. 440.38 and proof of payment to the carrier. In order for the department to apply a credit for an employer that has secured workers' compensation for leased employees by entering into an employee leasing contract with a licensed employee leasing company, the employer must provide the department with a written confirmation, by a representative from the employee leasing company, of the dollar or percentage amount attributable to the initial estimated workers' compensation expense for leased employees, and proof of payment to the employee leasing company. The credit may not be applied unless the employer provides the documentation and proof of payment to the department within 21 ~~28~~ days after the employer's receipt of the written request to produce business records for calculating the penalty under this subparagraph ~~service of the stop-work order or first order of penalty assessment upon the employer~~.

b. For an employer ~~employers~~ who has ~~have~~ not been previously issued a stop-work order or order of penalty assessment, the department must reduce the final assessed

penalty by 25 percent if the employer has complied with administrative rules adopted pursuant to subsection (5) and has provided such business records to the department within 21 ~~10 business~~ days after the employer's receipt of the written request to produce business records for calculating the penalty under this subparagraph.

c. For an employer who has not been previously issued a stop-work order or order of penalty assessment, the department must reduce the final assessed penalty by 15 percent if the employer correctly answers at least 80 percent of the questions from an online workers' compensation coverage and compliance tutorial, developed by the department, within 21 days after the employer's receipt of the written request to produce business records for calculating the penalty under this subparagraph. The online tutorial must be taken in a department office location identified by rule.

~~c.~~ The $1,000 penalty shall be assessed against the employer even if the calculated penalty after the credit provided in sub-subparagraph a., the ~~and~~ 25 percent reduction provided in sub-subparagraph b., and the 15 percent reduction provided in sub-subparagraph c., as applicable, have been applied is less than $1,000.

2. Any subsequent violation within 5 years after the most recent violation shall, in addition to the penalties set forth

in this subsection, be deemed a knowing act within the meaning of s. 440.105.

Section 16. Subsection (12) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual

as determined by the department, including maximum hours in which an outpatient may remain in observation status, which shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs. An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program shall be reimbursed either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule.

(b) It is the intent of the Legislature to increase the schedule of maximum reimbursement allowances for selected physicians effective January 1, 2004, and to pay for the increases through reductions in payments to hospitals. Revisions developed pursuant to this subsection are limited to the following:

1. Payments for outpatient physical, occupational, and speech therapy provided by hospitals shall be reduced to the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

2. Payments for scheduled outpatient nonemergency radiological and clinical laboratory services that are not

provided in conjunction with a surgical procedure shall be reduced to the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

3. Outpatient reimbursement for scheduled surgeries shall be reduced from 75 percent of charges to 60 percent of charges.

4. Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be increased to 110 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

5. Maximum reimbursement for surgical procedures shall be increased to 140 percent of the reimbursement allowed by Medicare or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

(c) As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus $4.18 for the dispensing fee. For repackaged or relabeled prescription medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average wholesale price, plus $8.00 for the dispensing fee. For purposes of this subsection, the average wholesale price shall be calculated by multiplying the number of units dispensed times the per-unit average wholesale price set by the original manufacturer of the underlying drug dispensed by the

practitioner, based upon the published manufacturer's average wholesale price published in the Medi-Span Master Drug Database as of the date of dispensing. All pharmaceutical claims submitted for repackaged or relabeled prescription medications must include the National Drug Code of the original manufacturer. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount except where the employer or carrier, or a service company, third party administrator, or any entity acting on behalf of the employer or carrier directly contracts with the provider seeking reimbursement for a lower amount.

(d) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening

program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers;

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers; and

4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408.

(e) In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall

provide administrative support and service to the panel to the extent requested by the panel and may adopt rules necessary to administer this subsection. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

Section 17. Subsection (3) of section 440.185, Florida Statutes, is amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(3) Within 3 business days after the employer or the employee informs the carrier of an injury, the carrier shall send by regular mail or e-mail to the injured worker an informational brochure approved by the department which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. Annually, the carrier or its third-party administrator shall send by regular mail or e-mail to the employer an informational brochure approved by the department

which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. All such informational brochures shall contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information commits a felony of the third degree."

Section 18. Subsection (3) of section 440.381, Florida Statutes, is amended to read:

440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.—

(3) The Financial Services Commission, in consultation with the department, shall establish by rule minimum requirements for audits of payroll and classifications ~~in order~~ to ensure that the appropriate premium is charged for workers' compensation coverage. The rules must ~~shall~~ ensure that audits performed by both carriers and employers are adequate to provide that all sources of payments to employees, subcontractors, and independent contractors are ~~have been~~ reviewed and that the accuracy of classification of employees is ~~has been~~ verified. The rules must require ~~shall provide~~ that employers in all classes other than the construction class be audited at least

~~not less frequently than~~ biennially and may provide for more frequent audits of employers in specified classifications based on factors such as amount of premium, type of business, loss ratios, or other relevant factors. ~~In no event shall~~ Employers in the construction class, generating more than the amount of premium required to be experience rated must~~,~~ be audited at least ~~less than~~ annually. The annual audits required for construction classes must ~~shall~~ consist of physical onsite audits for policies only if the estimated annual premium is $10,000 or more. Payroll verification audit rules must include, but need not be limited to, the use of state and federal reports of employee income, payroll and other accounting records, certificates of insurance maintained by subcontractors, and duties of employees. At the completion of an audit, the employer or officer of the corporation and the auditor must print and sign their names on the audit document and attach proof of identification to the audit document.

Section 19. Subsection (2) of section 497.277, Florida Statutes, is amended to read:

497.277 Other charges.—Other than the fees for the sale of burial rights, burial merchandise, and burial services, no other fee may be directly or indirectly charged, contracted for, or received by a cemetery company as a condition for a customer to use any burial right, burial merchandise, or burial service, except for:

(2) Charges paid for transferring burial rights from one purchaser to another~~; however, no such fee may exceed $50~~.

Section 20. Paragraph (b) of subsection (1) of section 497.369, Florida Statutes, is amended to read:

497.369 Embalmers; licensure as an embalmer by endorsement; licensure of a temporary embalmer.—

(1) The licensing authority shall issue a license by endorsement to practice embalming to an applicant who has remitted an examination fee set by rule of the licensing authority not to exceed $200 and who the licensing authority certifies:

(b)1. Holds a valid license in good standing to practice embalming in another state of the United States and has engaged in the full-time, licensed practice of embalming in that state for at least 5 years~~, provided that, when the applicant secured her or his original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in this state~~; or

2. Meets the qualifications for licensure in s. 497.368, except that the internship requirement shall be deemed to have been satisfied by 1 year's practice as a licensed embalmer in another state, and has, within 10 years before ~~prior to~~ the date of application, successfully completed a state, regional, or national examination in mortuary science, which, as determined by rule of the licensing authority, is substantially equivalent

to or more stringent than the examination given by the licensing authority.

Section 21. Paragraphs (b) and (f) of subsection (1) of section 497.372, Florida Statutes, are amended to read:

497.372 Funeral directing; conduct constituting practice of funeral directing.—

(1) The practice of funeral directing shall be construed to consist of the following functions, which may be performed only by a licensed funeral director:

(b) Planning or arranging, on an at-need basis, the details of funeral services, embalming, cremation, or other services relating to the final disposition of human remains, and ~~including the removal of such remains from the state; setting the time of the services;~~ establishing the type of services to be rendered~~; acquiring the services of the clergy; and obtaining vital information for the filing of death certificates and obtaining of burial transit permits~~.

(f) Directing, being in charge or apparent charge of, or supervising, directly or indirectly, any memorial service ~~held prior to or within 72 hours of the burial or cremation,~~ if such memorial service is sold or arranged by a licensee.

Section 22. Paragraph (b) of subsection (1) of section 497.374, Florida Statutes, is amended to read:

497.374 Funeral directing; licensure as a funeral director by endorsement; licensure of a temporary funeral director.—

(1) The licensing authority shall issue a license by endorsement to practice funeral directing to an applicant who has remitted a fee set by rule of the licensing authority not to exceed $200 and who:

(b)1. Holds a valid license in good standing to practice funeral directing in another state of the United States and has engaged in the full-time, licensed practice of funeral directing in that state for at least 5 years~~, provided that, when the applicant secured her or his original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in this state~~; or

2. Meets the qualifications for licensure in s. 497.373, except that the applicant need not hold an associate degree or higher if the applicant holds a diploma or certificate from an accredited program of mortuary science, and has successfully completed a state, regional, or national examination in mortuary science or funeral service arts, which, as determined by rule of the licensing authority, is substantially equivalent to or more stringent than the examination given by the licensing authority.

Section 23. Subsection (6) of section 554.108, Florida Statutes, is renumbered as subsection (7), subsection (1) is amended, and a new subsection (6) is added to that section, to read:

554.108 Inspection.—

(1) The inspection requirements of this chapter apply only to boilers located in public assembly locations. A ~~potable hot water supply~~ boiler with an ~~a heat~~ input of 200,000 British thermal units (Btu) per hour and above, up to an ~~a heat~~ input not exceeding 400,000 Btu per hour, is exempt from inspection; however, such an exempt boiler, if manufactured after July 1, 2022, ~~but~~ must be stamped with the A.S.M.E. code symbol. Additionally, ~~"HLW" and~~ the ~~boiler's~~ A.S.M.E data report of a boiler with an input of 200,000 to 400,000 Btu per hour must be filed as required under s. 554.103(2).

(6) Each enclosed space or room containing a boiler regulated under this chapter which is fired by the direct application of energy from the combustion of fuels and which is located in any portion of a public lodging establishment under s. 509.242 shall be equipped with one or more carbon monoxide detector devices.

Section 24. Paragraphs (a) and (e) of subsection (1) and paragraph (a) of subsection (2) of section 554.111, Florida Statutes, are amended to read:

554.111 Fees.—

(1) The department shall charge the following fees:

(a) For an applicant for a certificate of competency, the initial application fee shall be $50, and the annual renewal fee shall be $30. ~~The fee for examination shall be $50.~~

(e) An application for a boiler permit must include the manufacturer's data report ~~applicable certificate inspection fee provided in paragraph (b)~~.

(2) Not more than an amount equal to one certificate inspection fee may be charged or collected for any and all boiler inspections in any inspection period, except as otherwise provided in this chapter.

(a) When it is necessary to make a special trip for testing and verification inspections ~~to observe the application of a hydrostatic test~~, an additional fee equal to the fee for a certificate inspection of the boiler must be charged.

Section 25. Subsection (4) of section 554.114, Florida Statutes, is amended to read:

554.114 Prohibitions; penalties.—

(4) A boiler insurance company, authorized inspection agency, or other person in violation of this section for more than 30 days shall pay a fine of $10 per day for the subsequent ~~first~~ 10 days of noncompliance, $50 per day for the subsequent 20 days of noncompliance, and $100 per day for each subsequent day ~~over 20 days~~ of noncompliance thereafter.

Section 26. Subsection (9) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(9) Upon receiving service of legal process issued in any civil action or proceeding in this state against any regulated

person or any unauthorized insurer under s. 626.906 or s. 626.937 that ~~which~~ is required to appoint the Chief Financial Officer as its agent ~~attorney~~ to receive service of all legal process, the Chief Financial Officer shall make the process available through a secure online portal~~, as attorney, may, in lieu of sending the process by registered or certified mail, send the process or make it available by any other verifiable means, including, but not limited to, making the documents available by electronic transmission from a secure website~~ established by the department to the person last designated by the regulated person or the unauthorized insurer to receive the process. When process documents are made available electronically, the Chief Financial Officer shall promptly send a notice of receipt of service of process to the person last designated by the regulated person or unauthorized insurer to receive legal process. The notice must state the date ~~and manner in which the copy of~~ the process was made available to the regulated person or unauthorized insurer being served and contain the uniform resource locator (URL) where ~~for a hyperlink to access files and information on the department's website to obtain a copy of~~ the process may be obtained.

Section 27. Section 624.422, Florida Statutes, is amended to read:

624.422 Service of process; appointment of Chief Financial Officer as process agent.—

(1) Each licensed insurer, whether domestic, foreign, or alien, shall be deemed to have appointed the Chief Financial Officer and her or his successors in office as its agent ~~attorney~~ to receive service of all legal process issued against it in any civil action or proceeding in this state; and process so served shall be valid and binding upon the insurer.

(2) Before ~~Prior to~~ its authorization to transact insurance in this state, each insurer shall file with the department designation of the name and e-mail address of the person to whom process against it served upon the Chief Financial Officer is to be made available through the department's secure online portal ~~forwarded~~. Each insurer shall also file with the department designation of the name and e-mail address of the person to whom the department shall forward civil remedy notices filed under s. 624.155. The insurer may change a designation at any time by a new filing.

(3) Service of process submitted through the department's secure online portal upon the Chief Financial Officer as the insurer's agent ~~attorney~~ pursuant to such an appointment shall be the sole method of service of process upon an authorized domestic, foreign, or alien insurer in this state.

Section 28. Subsection (1) of section 624.423, Florida Statutes, is amended to read:

624.423 Serving process.—

(1) Service of process upon the Chief Financial Officer as process agent of the insurer under s. 624.422 and s. 626.937 shall be made ~~by serving a copy of the process upon the Chief Financial Officer or upon her or his assistant, deputy, or other person in charge of her or his office. Service may also be made by mail or~~ electronically as provided in s. 48.151(3) ~~s. 48.151~~. Upon receiving such service, the Chief Financial Officer shall retain a record of the process ~~copy~~ and promptly notify and make ~~forward one copy of~~ the process available through the department's secure online portal ~~by registered or certified mail or by other verifiable means~~, as provided under s. 624.307(9), to the person last designated by the insurer to receive the same, as provided under s. 624.422(2). For purposes of this section, records shall ~~may~~ be retained electronically ~~as paper or electronic copies~~.

Section 29. Paragraph (f) of subsection (3) and paragraph (d) of subsection (4) of section 624.610, Florida Statutes, are amended to read:

624.610 Reinsurance.—

(3)

(f) If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) or paragraph (d) must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1.a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

b. To designate the Chief Financial Officer, pursuant to s. 48.151(3) ~~s. 48.151~~, as its true and lawful agent ~~attorney~~ upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

2. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(4) Credit must be allowed when the reinsurance is ceded to an assuming insurer meeting the requirements of this subsection.

(d) The assuming insurer must, in a form specified by the commission:

1. Agree to provide prompt written notice and explanation to the office if the assuming insurer falls below the minimum requirements set forth in paragraph (b) or paragraph (c), or if

any regulatory action is taken against it for serious noncompliance with applicable law of any jurisdiction.

2. Consent in writing to the jurisdiction of the courts of this state and to the designation of the Chief Financial Officer, pursuant to s. 48.151(3) ~~s. 48.151~~, as its true and lawful agent ~~attorney~~ upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer. This subparagraph does not limit or alter in any way the capacity of parties to a reinsurance agreement to agree to an alternative dispute resolution mechanism, except to the extent that such agreement is unenforceable under applicable insolvency or delinquency laws.

3. Consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor which have been declared enforceable in the jurisdiction where the judgment was obtained.

4. Confirm in writing that it will include in each reinsurance agreement a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement, if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or enforcement of a properly enforceable arbitration award, whether obtained by

the ceding insurer or by its legal successor on behalf of its resolution estate.

5. Confirm in writing that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the office and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer if the assuming insurer enters into such a solvent scheme of arrangement. Such security must be consistent with subsection (5) or as specified by commission rule.

Section 30. Subsection (20) of section 626.015, Florida Statutes, is amended to read:

626.015 Definitions.—As used in this part:

(20) "Unaffiliated insurance agent" means a licensed insurance agent, except a limited lines agent, who is self-appointed and who practices as an independent consultant in the business of analyzing or abstracting insurance policies, providing insurance advice or counseling, or making specific recommendations or comparisons of insurance products for a fee established in advance by written contract signed by the parties. An unaffiliated insurance agent may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents. A licensed adjuster who is also an unaffiliated

insurance agent may obtain an adjuster appointment in order to adjust claims while holding an unaffiliated appointment on the agent license.

Section 31. Subsection (4) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(4) An applicant for a license issued by the department under this chapter ~~as an agent, customer representative, adjuster, service representative, or reinsurance intermediary~~ must submit a set of the individual applicant's fingerprints, or, if the applicant is not an individual, a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, to the department and must pay the fingerprint processing fee set forth in s. 624.501. Fingerprints must be processed in accordance with s. 624.34 and used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints must be taken by a law enforcement agency, designated examination center, or other department-approved entity. The department shall require all designated examination centers to have fingerprinting equipment and to take fingerprints from any applicant or prospective applicant who pays the applicable fee. The department may not approve an application for licensure as an agent, customer service

representative, adjuster, service representative, or reinsurance intermediary if fingerprints have not been submitted.

Section 32. Paragraph (f) of subsection (2) of section 626.172, Florida Statutes, is amended to read:

626.172 Application for insurance agency license.—

(2) An application for an insurance agency license must be signed by an individual required to be listed in the application under paragraph (a). An insurance agency may permit a third party to complete, submit, and sign an application on the insurance agency's behalf; however, the insurance agency is responsible for ensuring that the information on the application is true and correct and is accountable for any misstatements or misrepresentations. The application for an insurance agency license must include:

(f) The fingerprints, submitted in accordance with s. 626.171(4), of each of the following:

1. A sole proprietor;

2. Each individual required to be listed in the application under paragraph (a); and

3. Each individual who directs or participates in the management or control of an incorporated agency whose shares are not traded on a securities exchange.

~~Fingerprints must be taken by a law enforcement agency or other entity approved by the department and must be accompanied by the~~

~~fingerprint processing fee specified in s. 624.501. Fingerprints must be processed in accordance with s. 624.34. However,~~ Fingerprints need not be filed for an individual who is currently licensed and appointed under this chapter. This paragraph does not apply to corporations whose voting shares are traded on a securities exchange.

Section 33. Section 626.173, Florida Statutes, is created to read:

626.173 Insurance agency closure; cancellation of licenses.—

(1) If a licensed insurance agency permanently ceases the transacting of insurance or ceases the transacting of insurance for more than 30 days, the agent in charge, the director of the agency, or other officer listed on the original application for licensure must, within 35 days after the agency first ceases the transacting of insurance, do all of the following:

(a) Cancel the insurance agency's license by completing and submitting a form prescribed by the department to notify the department of the cancellation of the license.

(b) Notify all insurers by which the agency or agent in charge is appointed of the agency's cessation of operations, the date on which operations ceased, the identity of any agency or agent to which the agency's current book of business has been transferred, and the method by which agency records may be

obtained during the time periods specified in ss. 626.561 and 626.748.

(c) Notify all policyholders currently insured by a policy written, produced, or serviced by the agency of the agency's cessation of operations; the date on which operations ceased; and the identity of the agency or agent to which the agency's current book of business has been transferred or, if no transfer has occurred, a statement directing the policyholder to contact the insurance company for assistance in locating a licensed agent to service the policy.

(d) Notify all premium finance companies through which active policies are financed of the agency's cessation of operations, the date on which operations ceased, and the identity of any agency or agent to which the agency's current book of business has been transferred.

(e) Ensure that all funds held in a fiduciary capacity are properly distributed to the rightful owners.

(2)(a) The department may, in a proceeding initiated pursuant to chapter 120, impose an administrative fine against the agent in charge or the director or officer of the agency found in the proceeding to have violated any provision of this section. A proceeding may not be initiated and a fine may not accrue until after the person has been notified in writing of the nature of the violation and the person has been afforded 10 business days to correct the violation but has failed to do so.

(b) A fine imposed under this subsection may not exceed the amounts specified in s. 626.681 per violation.

(c) The department may, in addition to the imposition of an administrative fine under this subsection, also suspend or revoke the license of the licensee fined under this subsection.

(d) In imposing any administrative penalty or remedy provided under this subsection, the department shall take into account the appropriateness of the penalty or remedy with respect to the size of the financial resources and the good faith of the person charged, the gravity of the violation, the history of previous violations, and other matters as justice may require.

Section 34. Subsection (3) of section 626.201, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

626.201 Investigation.—

(3) An inquiry or investigation of the applicant's qualifications, character, experience, background, and fitness must include submission of the applicant's fingerprints, in accordance with s. 626.171(4), to the Department of Law Enforcement and the Federal Bureau of Investigation and consideration of any state criminal records, federal criminal records, or local criminal records obtained from these agencies or from local law enforcement agencies.

(4) The expiration, nonrenewal, or surrender of a license under this chapter does not eliminate jurisdiction of the department or office to investigate and prosecute for a violation committed by the licensee while licensed under this chapter. The prosecution of any matter may be initiated or continued notwithstanding the withdrawal of a complaint.

Section 35. Section 626.202, Florida Statutes, is amended to read:

626.202 Fingerprinting requirements.—

(1) The requirements for completion and submission of fingerprints under this chapter in accordance with s. 626.171(4) are deemed to be met when an individual currently licensed under this chapter seeks additional licensure and has previously submitted fingerprints to the department within the past 48 months. However, the department may require the individual to file fingerprints if it has reason to believe that an applicant or licensee has been found guilty of, or pleaded guilty or nolo contendere to, a felony or a crime related to the business of insurance in this state or any other state or jurisdiction.

(2) If there is a change in ownership or control of any entity licensed under this chapter, or if a new partner, officer, or director is employed or appointed, a set of fingerprints of the new owner, partner, officer, or director must be filed with the department or office within 30 days after the change. The acquisition of 10 percent or more of the voting

securities of a licensed entity is considered a change of ownership or control. The fingerprints must be submitted in accordance with s. 626.171(4) ~~taken by a law enforcement agency or other department-approved entity and be accompanied by the fingerprint processing fee in s. 624.501~~.

Section 36. 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, Certified All Lines Adjuster (CALA) from Kaplan Financial Education, 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., 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 37. Subsection (6) of section 626.311, Florida Statutes, is amended to read:

626.311 Scope of license.—

(6) An agent who appoints his or her license as an unaffiliated insurance agent may not hold an appointment from an insurer for any license he or she holds, with the exception of an adjuster license; transact, solicit, or service an insurance contract on behalf of an insurer; interfere with commissions received or to be received by an insurer-appointed insurance agent or an insurance agency contracted with or employing insurer-appointed insurance agents; or receive compensation or any other thing of value from an insurer, an insurer-appointed insurance agent, or an insurance agency contracted with or employing insurer-appointed insurance agents for any transaction or referral occurring after the date of appointment as an unaffiliated insurance agent. An unaffiliated insurance agent may continue to receive commissions on sales that occurred before the date of appointment as an unaffiliated insurance agent if the receipt of such commissions is disclosed when making recommendations or evaluating products for a client that involve products of the entity from which the commissions are

received. An adjuster who holds an adjuster license and who is also an unaffiliated insurance agent may obtain an adjuster appointment while maintaining his or her unaffiliated insurance agent appointment and may adjust claims and receive compensation in accordance with the authority granted by the adjuster license and appointment.

Section 38. Paragraph (h) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(h) Portable electronics insurance.—License for property insurance or inland marine insurance that covers only loss, theft, mechanical failure, malfunction, or damage for portable electronics.

1. The license may be issued only to:

a. Employees or authorized representatives of a licensed general lines agent; or

b. The lead business location of a retail vendor that sells portable electronics insurance. The lead business location must have a contractual relationship with a general lines agent.

2. Employees or authorized representatives of a licensee under subparagraph 1. may sell or offer for sale portable

electronics coverage without being subject to licensure as an insurance agent if:

a. Such insurance is sold or offered for sale at a licensed location or at one of the licensee's branch locations if the branch location is appointed by the licensed lead business location or its appointing insurers;

b. The insurer issuing the insurance directly supervises or appoints a general lines agent to supervise the sale of such insurance, including the development of a training program for the employees and authorized representatives of vendors that are directly engaged in the activity of selling or offering the insurance; and

c. At each location where the insurance is offered, brochures or other written materials that provide the information required by this subparagraph are made available to all prospective customers. The brochures or written materials may include information regarding portable electronics insurance, service warranty agreements, or other incidental services or benefits offered by a licensee.

3. Individuals not licensed to sell portable electronics insurance may not be paid commissions based on the sale of such coverage. However, a licensee who uses a compensation plan for employees and authorized representatives which includes supplemental compensation for the sale of noninsurance products, in addition to a regular salary or hourly wages, may include

incidental compensation for the sale of portable electronics insurance as a component of the overall compensation plan.

4. Brochures or other written materials related to portable electronics insurance must:

a. Disclose that such insurance may duplicate coverage already provided by a customer's homeowners insurance policy, renters insurance policy, or other source of coverage;

b. State that enrollment in insurance coverage is not required in order to purchase or lease portable electronics or services;

c. Summarize the material terms of the insurance coverage, including the identity of the insurer, the identity of the supervising entity, the amount of any applicable deductible and how it is to be paid, the benefits of coverage, and key terms and conditions of coverage, such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

d. Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable if the customer fails to comply with equipment return requirements; and

e. State that an enrolled customer may cancel coverage at any time and that the person paying the premium will receive a refund of any unearned premium.

5. A licensed and appointed general lines agent is not required to obtain a portable electronics insurance license to offer or sell portable electronics insurance at locations already licensed as an insurance agency, but may apply for a portable electronics insurance license for branch locations not otherwise licensed to sell insurance.

6. A portable electronics license authorizes the sale of individual policies or certificates under a group or master insurance policy. The license also authorizes the sale of service warranty agreements covering only portable electronics to the same extent as if licensed under s. 634.419 or s. 634.420.

7. A licensee may bill and collect the premium for the purchase of portable electronics insurance provided that:

a. If the insurance is included with the purchase or lease of portable electronics or related services, the licensee clearly and conspicuously discloses that insurance coverage is included with the purchase. Disclosure of the stand-alone cost of the premium for same or similar insurance must be made on the customer's bill and in any marketing materials made available at the point of sale. If the insurance is not included, the charge to the customer for the insurance must be separately itemized on the customer's bill.

b. Premiums are incidental to other fees collected, are maintained in a manner that is readily identifiable, and are

accounted for and remitted to the insurer or supervising entity within 60 days of receipt. Licensees are not required to maintain such funds in a segregated account.

c. All funds received by a licensee from an enrolled customer for the sale of the insurance are considered funds held in trust by the licensee in a fiduciary capacity for the benefit of the insurer. Licensees may receive compensation for billing and collection services.

8. Notwithstanding any other provision of law, the terms for the termination or modification of coverage under a policy of portable electronics insurance are those set forth in the policy.

9. Notice or correspondence required by the policy, or otherwise required by law, may be provided by electronic means if the insurer or licensee maintains proof that the notice or correspondence was sent. Such notice or correspondence may be sent on behalf of the insurer or licensee by the general lines agent appointed by the insurer to supervise the administration of the program. For purposes of this subparagraph, an enrolled customer's provision of an electronic mail address to the insurer or licensee is deemed to be consent to receive notices and correspondence by electronic means if a conspicuously located disclosure is provided to the customer indicating the same.

10. The ~~provisions of this chapter requiring submission of~~ fingerprints requirements in s. 626.171(4) do not apply to licenses issued to qualified entities under this paragraph.

11. A branch location that sells portable electronics insurance may, in lieu of obtaining an appointment from an insurer or warranty association, obtain a single appointment from the associated lead business location licensee and pay the prescribed appointment fee under s. 624.501 if the lead business location has a single appointment from each insurer or warranty association represented and such appointment applies to the lead business location and all of its branch locations. Branch location appointments shall be renewed 24 months after the initial appointment date of the lead business location and every 24 months thereafter. Notwithstanding s. 624.501, the renewal fee applicable to such branch location appointments is $30 per appointment.

12. For purposes of this paragraph:

a. "Branch location" means any physical location in this state at which a licensee offers its products or services for sale.

b. "Portable electronics" means personal, self-contained, easily carried by an individual, battery-operated electronic communication, viewing, listening, recording, gaming, computing or global positioning devices, including cell or satellite phones, pagers, personal global positioning satellite units,

portable computers, portable audio listening, video viewing or recording devices, digital cameras, video camcorders, portable gaming systems, docking stations, automatic answering devices, and other similar devices and their accessories, and service related to the use of such devices.

c. "Portable electronics transaction" means the sale or lease of portable electronics or a related service, including portable electronics insurance.

Section 39. Subsection (5) of section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(5) If the department or office, after investigation, has reason to believe that an individual may have been found guilty of or pleaded guilty or nolo contendere to a felony or a crime related to the business of insurance in this or any other state or jurisdiction, the department or office may require the individual to file with the department or office a complete set of his or her fingerprints, <u>in accordance with s. 626.171(4),</u> which shall be accompanied by the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be taken by an authorized law enforcement agency or other department-approved entity.

Section 40. Paragraph (d) of subsection (2) of section 626.8411, Florida Statutes, is amended, and paragraph (f) is added to subsection (1) of that section, to read:

626.8411 Application of Florida Insurance Code provisions to title insurance agents or agencies.—

(1) The following provisions applicable to general lines agents or agencies also apply to title insurance agents or agencies:

(f) Section 626.172(2)(f), relating to fingerprints.

(2) The following provisions of part I do not apply to title insurance agents or title insurance agencies:

(d) Section 626.172, except for paragraph (2)(f) of that section, relating to agent in full-time charge.

Section 41. Paragraph (b) of subsection (1) of section 626.8412, Florida Statutes, is amended to read:

626.8412 License and appointments required.—

(1) Except as otherwise provided in this part:

(b) A title insurance agent may not sell a title insurance policy issued by an insurer for which the agent and the agency do ~~does~~ not hold a current appointment.

Section 42. Paragraph (a) of subsection (3) of section 626.8417, Florida Statutes, is amended to read:

626.8417 Title insurance agent licensure; exemptions.—

(3) The department may not grant or issue a license as a title insurance agent to an individual who is found by the department to be untrustworthy or incompetent, who does not meet the qualifications for examination specified in s. 626.8414, or who does not meet the following qualifications:

(a) Within the 4 years immediately preceding the date of the application for license, the applicant must have completed a 40-hour ~~classroom~~ course in title insurance, 3 hours of which are on the subject matter of ethics, as approved by the department, or must have had at least 12 months of experience in responsible title insurance duties, under the supervision of a licensed title insurance agent, title insurer, or attorney while working in the title insurance business as a substantially full-time, bona fide employee of a title insurance agency, title insurance agent, title insurer, or attorney who conducts real estate closing transactions and issues title insurance policies but who is exempt from licensure under subsection (4). If an applicant's qualifications are based upon the periods of employment at responsible title insurance duties, the applicant must submit, with the license application, an affidavit of the applicant and of the employer affirming the period of such employment, that the employment was substantially full time, and giving a brief abstract of the nature of the duties performed by the applicant.

Section 43. Section 626.8421, Florida Statutes, is amended to read:

626.8421 Number of appointments permitted or required.—A title agent and a title agency shall be required to have a separate appointment as to each insurer by which they are ~~he or she is~~ appointed as agents ~~agent~~. As a part of each appointment

there shall be a certified statement or affidavit of an appropriate officer or official of the appointing insurer stating that to the best of the insurer's knowledge and belief the applicant, or its principals in the case of a corporation or other legal entity, has met the requirements of s. 626.8417.

Section 44. Subsections (1) and (2) of section 626.843, Florida Statutes, are amended to read:

626.843 Renewal, continuation, reinstatement, termination of title insurance agent's and title insurance agency's appointments ~~appointment~~.—

(1) Appointments ~~the appointment~~ of a title insurance agent and a title insurance agency shall continue in force until suspended, revoked, or otherwise terminated, but subject to a renewed request filed by the insurer every 24 months after the original issue dates ~~date~~ of the appointments ~~appointment~~, accompanied by payments ~~payment~~ of the renewal appointment fees ~~fee~~ and taxes as prescribed in s. 624.501.

(2) Title insurance agent and title insurance agency appointments shall be renewed pursuant to s. 626.381 for insurance representatives in general.

Section 45. Subsection (1) of section 626.8433, Florida Statutes, is amended to read:

626.8433 Filing of reasons for terminating appointments ~~appointment~~ of title insurance agent and title insurance agency; confidential information.—

(1) Any title insurer that is terminating the appointment of a title insurance agent or title insurance agency, whether such termination is by direct action of the appointing title insurer or by failure to renew or continue the appointment as provided, shall file with the department a statement of the reasons, if any, for, and the facts relative to, such termination.

Section 46. Section 626.8447, Florida Statutes, is amended to read:

626.8447 Effect of suspension or revocation upon other licensees, appointees.—In case of the suspension or revocation of the license and appointment of any title insurance agent or title insurance agency, the licenses and appointments of all other title insurance agents who knowingly were parties to the act that ~~which~~ formed the ground for such suspension or revocation may likewise be suspended or revoked for the same period as that of the offending title insurance agent or title insurance agency, but such suspension or revocation does ~~shall~~ not prevent any title insurance agent, except the one whose license and appointment was first suspended or revoked, from being issued an appointment for some other title insurer.

Section 47. Paragraph (d) of subsection (10) of section 626.854, Florida Statutes, is redesignated as paragraph (f), paragraphs (a) and (b) of that subsection are amended, and a new

paragraph (d) and paragraph (e) are added to that subsection, to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(10)(a) If a public adjuster enters into a contract with an insured or claimant to reopen a claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by the insurer, the public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value based on a previous settlement or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or any other thing of value must be based only on the claim payments or settlements paid to the insured, exclusive of attorney fees and costs, ~~settlement~~ obtained through the work of the public adjuster after entering into the contract with the insured or claimant. Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment. In no event shall the contracts described in this paragraph exceed the limitations in paragraph (b).

(b) A public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value in excess of:

1. Ten percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured ~~made~~ by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.

2. Twenty percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured ~~made~~ by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

(d) Public adjuster compensation may not be based on amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster rate of compensation may not be increased based solely on the fact that the claim is litigated.

Section 48. Section 626.8561, Florida Statutes, is amended to read:

626.8561 "Public adjuster apprentice" defined.—The term "public adjuster apprentice" means a person licensed as an all-lines adjuster who:

(1) Is appointed and employed or contracted by ~~a public adjuster or~~ a public adjusting firm;

(2) Assists the ~~public adjuster or~~ public adjusting firm in ascertaining and determining the amount of any claim, loss, or damage payable under an insurance contract, or who undertakes to effect settlement of such claim, loss, or damage; and

(3) Satisfies the requirements of s. 626.8651.

Section 49. Paragraph (e) of subsection (1) and subsection (2) of section 626.865, Florida Statutes, are amended to read:

626.865 Public adjuster's qualifications, bond.—

(1) The department shall issue a license to an applicant for a public adjuster's license upon determining that the applicant has paid the applicable fees specified in s. 624.501 and possesses the following qualifications:

(e) Has been licensed and appointed in this state as a nonresident public adjuster on a continual basis for the previous 6 months, or has been licensed as an all-lines adjuster, and has been appointed on a continual basis for the

previous 6 months as a public adjuster apprentice under s. 626.8561, as an independent adjuster under s. 626.855, or as a company employee adjuster under s. 626.856.

(2) At the time of application for license as a public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact such business in this state, in the amount of $50,000, conditioned for the faithful performance of his or her duties as a public adjuster under the license for which the applicant has applied, and thereafter maintain the bond unimpaired throughout the existence of the license ~~and for at least 1 year after termination of the license~~.

(a) The bond must ~~shall~~ be in favor of the department and must ~~shall~~ specifically authorize recovery by the department of the damages sustained in case the licensee is guilty of fraud or unfair practices in connection with his or her business as public adjuster.

(b) The bond must remain in effect for 1 year after the expiration or termination of the license.

(c) The aggregate liability of the surety for all such damages may not ~~shall in no event~~ exceed the amount of the bond. The ~~Such~~ bond may ~~shall~~ not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

Section 50. Paragraph (a) of subsection (1) and subsection (3) of section 626.8651, Florida Statutes, are amended to read:

626.8651 Public adjuster apprentice appointment; qualifications.—

(1)(a) The department shall issue an appointment as a public adjuster apprentice to a licensee who:

1. Is licensed as an all-lines adjuster under s. 626.866;

2. Has filed with the department a bond executed and issued by a surety insurer that is authorized to transact such business in this state in the amount of $50,000, which is conditioned upon the faithful performance of his or her duties as a public adjuster apprentice; and

3. Maintains such bond unimpaired throughout the existence of the appointment. The bond must remain in effect for 1 year after the expiration or termination of the license ~~and for at least 1 year after termination of the appointment~~.

(3) A public adjuster apprentice has the same authority as the licensed public adjuster or public adjusting firm that employs the apprentice except that an apprentice may not execute contracts for the services of a public adjuster or public adjusting firm. An individual may not be, act as, or hold himself or herself out to be a public adjuster apprentice unless the individual is licensed as an all-lines adjuster and holds a current appointment by a licensed ~~public all-lines adjuster or a~~ public adjusting firm that has designated with the department a

primary ~~employs a licensed public~~ adjuster as required by s. 626.8695.

Section 51. Section 626.8696, Florida Statutes, is amended to read:

626.8696 Application for adjusting firm license.—

(1) The application for an adjusting firm license must include:

(a) The name of each majority owner, partner, officer, and director of the adjusting firm.

(b) The resident address of each person required to be listed in the application under paragraph (a).

(c) The name of the adjusting firm and its principal business address.

(d) The location of each adjusting firm office and the name under which each office conducts or will conduct business.

(e) The name and license number of the designated primary adjuster for each adjusting firm location as required in s. 626.8695.

(f) The fingerprints of each individual required to be listed in the application under paragraph (a), filed in accordance with s. 626.171(4). However, fingerprints need not be filed for an individual who is currently licensed and appointed under this chapter.

(g) ~~(e)~~ Any additional information that the department requires.

(2) An application for an adjusting firm license must be signed by one of the individuals required to be listed in the application under paragraph (1)(a) ~~each owner of the firm. If the firm is incorporated, the application must be signed by the president and secretary of the corporation~~.

~~(3) Each application must be accompanied by payment of any applicable fee as prescribed in s. 624.501.~~

~~(4) License fees are not refundable.~~

~~(5) An adjusting firm required to be licensed pursuant to s. 626.8695 must remain so licensed for a period of 3 years from the date of licensure, unless the license is suspended or revoked. The department may suspend or revoke the adjusting firm's authority to do business for activities occurring during the time the firm is licensed, regardless of whether the licensing period has terminated.~~

Section 52. Subsection (3) of section 626.8732, Florida Statutes, is amended to read:

626.8732 Nonresident public adjuster's qualifications, bond.—

(3) At the time of application for license as a nonresident public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact surety business in this state, in the amount of $50,000, conditioned for the faithful performance of his or her duties as a nonresident public adjuster under the

license applied for. Thereafter, the applicant shall maintain the bond unimpaired throughout the existence of the license and for 1 year after the expiration or termination of the license.

(a) The bond must be in favor of the department and must specifically authorize recovery by the department of the damages sustained if the licensee commits fraud or unfair practices in connection with his or her business as nonresident public adjuster.

(b) The aggregate liability of the surety for all the damages may not exceed the amount of the bond. The bond may not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

Section 53. Paragraph (a) of subsection (2) of section 626.8734, Florida Statutes, is amended to read:

626.8734 Nonresident all-lines adjuster license qualifications.—

(2) The applicant must furnish the following with his or her application:

(a) A complete set of his or her fingerprints in accordance with s. 626.171(4). ~~The applicant's fingerprints must be certified by an authorized law enforcement officer.~~

Section 54. Section 626.906, Florida Statutes, is amended to read:

626.906 Acts constituting Chief Financial Officer as process agent.—Any of the following acts in this state, effected

by mail or otherwise, by an unauthorized foreign insurer, alien insurer, or person representing or aiding such an insurer is equivalent to and shall constitute an appointment by such insurer or person representing or aiding such insurer of the Chief Financial Officer to be its true and lawful agent ~~attorney~~, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary, arising out of any such contract of insurance; and any such act shall be signification of the insurer's or person's agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer or person representing or aiding such insurer:

(1) The issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein;

(2) The solicitation of applications for such contracts;

(3) The collection of premiums, membership fees, assessments, or other considerations for such contracts; or

(4) Any other transaction of insurance.

Section 55. Subsection (4) of section 626.912, Florida Statutes, is amended to read:

626.912 Exemptions from ss. 626.904-626.911.—The provisions of ss. 626.904-626.911 do not apply to any action, suit, or proceeding against any unauthorized foreign insurer,

alien insurer, or person representing or aiding such an insurer arising out of any contract of insurance:

(4) Issued under and in accordance with the Surplus Lines Law, when such insurer or person representing or aiding such insurer enters a general appearance or when such contract of insurance contains a provision designating the Chief Financial Officer or designating a Florida resident agent to be the true and lawful agent ~~attorney~~ of such unauthorized insurer or person representing or aiding such insurer upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or person representing or aiding such insurer or beneficiary arising out of any such contract of insurance; and service of process effected on such Chief Financial Officer or such resident agent shall be deemed to confer complete jurisdiction over such unauthorized insurer or person representing or aiding such insurer in such action.

Section 56. Subsections (3) and (4) of section 626.937, Florida Statutes, are amended to read:

626.937 Actions against insurer; service of process.—

(3) Each unauthorized insurer requesting eligibility pursuant to s. 626.918 shall file with the department its appointment of the Chief Financial Officer, on a form as furnished by the department, as its agent ~~attorney~~ to receive service of all legal process issued against it in any civil action or proceeding in this state, and agreeing that process so

served shall be valid and binding upon the insurer. The appointment shall be irrevocable, shall bind the insurer and any successor in interest as to the assets or liabilities of the insurer, and shall remain in effect as long as there is outstanding in this state any obligation or liability of the insurer resulting from its insurance transactions therein.

(4) At the time of such appointment of the Chief Financial Officer as its process agent, the insurer shall file with the department designation of the name and e-mail address of the person to whom process against it served upon the Chief Financial Officer is to be made available through the department's secure online portal ~~forwarded~~. The insurer may change the designation at any time by a new filing.

Section 57. Subsection (5) of section 626.9953, Florida Statutes, is amended to read:

626.9953 Qualifications for registration; application required.—

(5) An applicant must submit a set of his or her fingerprints in accordance with s. 626.171(4) ~~to the department and pay the processing fee established under s. 624.501(23)~~. The department shall submit the applicant's fingerprints to the Department of Law Enforcement for processing state criminal history records checks and local criminal records checks through local law enforcement agencies and for forwarding to the Federal Bureau of Investigation for national criminal history records

checks. The fingerprints shall be taken by a law enforcement agency, a designated examination center, or another department-approved entity. The department may not approve an application for registration as a navigator if fingerprints have not been submitted.

Section 58. Paragraphs (e) and (f) are added to subsection (4) of section 633.135, Florida Statutes, to read:

633.135 Firefighter Assistance Grant Program.—

(4) Funds shall be used to:

(e) Purchase other equipment and tools that improve firesafety and fire rescue capabilities for firefighters.

(f) Purchase protective clothing and equipment compliant with NFPA 1977, "Standard on Protective Clothing and Equipment for Wildland Fire Fighting and Urban Interface Fire Fighting."

Section 59. Subsections (6) through (9) of section 633.216, Florida Statutes, are renumbered as subsections (5) through (8), respectively, and subsection (4) and present subsection (5) of that section are amended, to read:

633.216 Inspection of buildings and equipment; orders; firesafety inspection training requirements; certification; disciplinary action.—The State Fire Marshal and her or his agents or persons authorized to enforce laws and rules of the State Fire Marshal shall, at any reasonable hour, when the State Fire Marshal has reasonable cause to believe that a violation of this chapter or s. 509.215, or a rule adopted thereunder, or a

minimum firesafety code adopted by the State Fire Marshal or a local authority, may exist, inspect any and all buildings and structures which are subject to the requirements of this chapter or s. 509.215 and rules adopted thereunder. The authority to inspect shall extend to all equipment, vehicles, and chemicals which are located on or within the premises of any such building or structure.

(4) Every firesafety inspector certificate is valid for a period of 4 years from the date of issuance. Renewal of certification is subject to the affected person's completing proper application for renewal and meeting all of the requirements for renewal as established under this chapter or by rule adopted under this chapter, which must include completion of at least 54 hours during the preceding 4-year period of continuing education as required by the rule of the department ~~or, in lieu thereof, successful passage of an examination as established by the department~~.

~~(5) A previously certified firesafety inspector whose certification has lapsed for 8 years or more must repeat the fire safety inspector training as specified by the division.~~

Section 60. Subsection (5) of section 633.336, Florida Statutes, is amended to read:

633.336 Contracting without certificate prohibited; violations; penalty.—

(5) In addition to the penalties provided in subsection (4), a fire protection contractor certified under this chapter who violates any provision of this section or who commits any act constituting cause for disciplinary action is subject to:

(a) S~~s~~uspension or revocation of the certificate ~~and administrative fines~~ pursuant to s. 633.338; and

(b) An administrative fine of up to $10,000 in any one proceeding for violations of subsections (1) or (2), and if applicable, may be in addition to or in lieu of suspension or revocation of a certificate.

The State Fire Marshal shall adopt by rule guidelines that specify a range of designated penalties under this subsection based upon the severity and repetition of specific offenses and identify mitigating and aggravating circumstances that allow the State Fire Marshal to impose a penalty other than that provided for in the guidelines, and for variations and a range of penalties permitted under such circumstances.

Section 61~~0~~. Paragraph (b) of subsection (4) and paragraphs (a) and (c) of subsection (6) of section 633.408, Florida Statutes, are amended to read:

633.408 Firefighter and volunteer firefighter training and certification.—

(4) The division shall issue a Firefighter Certificate of Compliance to an individual who does all of the following:

(b) Passes the Minimum Standards Course certification ~~examination~~ within 12 months after completing the required courses.

(6)(a) The division may issue a Special Certificate of Compliance to an individual who does all of the following:

1. Satisfactorily completes the course established by rule by the division and successfully passes any examination corresponding to such course ~~in paragraph (1)(b)~~ to obtain a Special Certificate of Compliance.

~~2. Passes the examination established in paragraph (1)(b) to obtain a Special Certificate of Compliance.~~

2.~~3.~~ Possesses the qualifications in s. 633.412.

~~(c) In order to retain a Special Certificate of Compliance, every 4 years an individual must:~~

~~1. Be active as a firefighter;~~

~~2. Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the division; or~~

~~3. Within 6 months before the 4-year period expires, successfully complete a Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training as prescribed by rule.~~

Section 62~~1~~. Subsections (5), (6), and (7) of section 633.414, Florida Statutes, are renumbered as subsections (4), (5), and (6) respectively, and subsection (1) and present subsection (4) of that section are amended, to read:

633.414 Retention of firefighter and volunteer firefighter certifications.—

(1) In order for a firefighter to retain her or his Firefighter Certificate of Compliance or Special Certificate of Compliance, every 4 years he or she must meet the requirements for renewal provided in this chapter and by rule, which must include at least one of the following:

(a) Be active as a firefighter. As used in this section, the term "active" means being employed as a firefighter or providing service as a volunteer firefighter as evidenced by the individual's name appearing on a fire service provider's employment roster in the Florida State Fire College database or a letter by the fire service provider attesting to dates of employment.

(b) Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the division.

(c) Before the expiration of the certificate ~~Within 6 months before the 4-year period expires~~, successfully complete a

Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training to be prescribed by rule.

(d) Before the expiration of the certificate ~~Within 6 months before the 4-year period expires~~, successfully retake and pass the Minimum Standards Course examination pursuant to s. 633.408.

~~(4) For the purposes of this section, the term "active" means being employed as a firefighter or providing service as a volunteer firefighter for a cumulative period of 6 months within a 4-year period.~~

The 4-year period may, in the discretion of the department, be extended to 12 months after discharge from military service if the military service does not exceed 3 years, but in no event more than 6 years from the date of issue or renewal, if applicable, for an honorably discharged veteran of the United States Armed Forces or the spouse of such a veteran. A qualified individual must provide a copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document that indicates such member is currently in good standing or such veteran is honorably discharged.

Section 63~~2~~. Subsection (4) of section 648.34, Florida Statutes, is amended to read:

648.34 Bail bond agents; qualifications.—

(4) The applicant shall furnish, with his or her application, a complete set of his or her fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. ~~The applicant's fingerprints shall be certified by an authorized law enforcement officer.~~ The department shall not authorize an applicant to take the required examination until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 64~~3~~. Subsection (4) of section 648.355, Florida Statutes, is amended to read:

648.355 Temporary limited license as limited surety agent or professional bail bond agent; pending examination.—

(4) The applicant shall furnish, with the application for temporary license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. ~~The applicant's fingerprints shall be certified by an authorized law enforcement officer.~~ The department shall not issue a temporary license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or

nonexistence of a criminal history report based on the applicant's fingerprints.

Section 654. Subsection (4) is added to section 648.46, Florida Statutes, to read:

648.46 Procedure for disciplinary action against licensees.—

(4) The expiration, nonrenewal, or surrender of licensure under this chapter does not eliminate the jurisdiction of the department or office to investigate and prosecute for a violation committed by a licensee while licensed under this chapter. The prosecution of any matter may be initiated or continued notwithstanding the withdrawal of a complaint.

T I T L E A M E N D M E N T

Remove lines 73-193 and insert:

assessments; amending s. 440.13, F.S.; authorizing the department to adopt rules; amending s. 440.185, F.S.; revising the timeline and methods for workers' compensation carriers to send certain informational brochure to injured workers; revising methods by which such informational brochure is sent to employers; amending s. 440.381, F.S.; specifying workers' compensation policies that require physical onsite audits for a specified class; amending s. 497.277, F.S.; deleting a cap on

transferring burial rights fees; amending s. 497.369, F.S.; revising requirements for licenses by endorsement to practice embalming; amending s. 497.372, F.S.; revising the scope of funeral directing practice; amending s. 497.374, F.S.; revising requirements for licenses by endorsement to practice funeral directing; amending s. 554.108, F.S.; requiring boilers manufactured after a specified date, rather than boilers of certain heat input, to be stamped with a specified code symbol; revising the boilers' information that must be filed; requiring that specified spaces and rooms be equipped with carbon monoxide detector devices; amending s. 554.111, F.S.; deleting a requirement for a specified fee for a certificate of competency; requiring applications for boiler permits to include a specified report; revising the purpose for special trips that the department is required to make for boiler inspections; amending s. 554.114, F.S.; revising the schedules of penalties against boiler insurance companies, inspection agencies, and other persons for specified violations; amending s. 624.307, F.S.; providing that certain regulated persons or unauthorized insurers are required to appoint the Chief Financial Officer as their agents, rather than as their attorneys, to receive service of legal process; revising the method by which the Chief Financial Officer makes the process available; amending s. 624.422, F.S.; requiring insurers to file with the department email-addresses, rather than addresses, of specified persons;

providing that a specified method by which process is served upon the Chief Financial Officer is the sole method of service; conforming provisions to changes made by the act; amending s. 624.423, F.S.; revising procedures for service of process; requiring the Chief Financial Officer to promptly notify certain persons of the process and to make the process available to such persons through specified means; revising the method by which records are retained; amending s. 624.610, F.S.; conforming provisions to changes made by the act; amending s. 626.015, F.S.; revising the definition of the term "unaffiliated insurance agent"; amending s. 626.171, F.S.; requiring fingerprints for certain licenses to be processed in accordance with specified laws; amending s. 626.172, F.S.; revising the method by which fingerprints for applications for insurance agency licenses are submitted; deleting a fingerprint processing fee; creating s. 626.173, F.S.; providing duties for certain insurance agency persons within a specified timeframe after cessation of insurance transactions; authorizing the department or the Office of Insurance Regulation to impose administrative fines against such persons for specified violations; prohibiting proceedings from being initiated and fines from accruing unless specified requirements are met; providing a cap on such fines; authorizing the department or the office to suspend or revoke licenses under certain circumstances; providing requirements for determining penalties and remedies; amending s. 626.201, F.S.;

conforming a provision to changes made by the act; providing continuation of jurisdiction of the licensing authority to investigate and prosecute specified violations under certain circumstances; amending s. 626.202, F.S.; conforming provisions to changes made by the act; amending s. 626.221, F.S.; adding a designation to the list of designations that allow applicants for all-lines adjuster license to be exempt from an examination; amending s. 626.311, F.S.; providing an exception to the prohibition against unaffiliated insurance agents' holding appointments from insurers; amending ss. 626.321, 626.601, 626.8411, and 626.8412, F.S.; conforming provisions to changes made by the act; amending s. 626.8417, F.S.; revising requirements to qualify for title insurance agent licenses; amending s. 626.8421, F.S.; requiring title agencies to have separate appointments under certain circumstances; amending s. 626.843, F.S.; providing appointments of title insurance agencies; amending s. 626.8433, F.S.; requiring title insurers that terminate appointments of title insurance agencies to file certain information with the department; amending s. 626.8447, F.S.; providing effects of suspension or revocation of title insurance agency licenses; amending s. 626.854, F.S.; revising restrictions on public adjuster compensations; prohibiting public adjuster compensations from being based on specified expenses; providing an exception; prohibiting increases of public adjuster rates of compensation from being based on a

specified fact; amending s. 626.8561, F.S.; revising the definition of the term "public adjuster apprentice"; amending s. 626.865, F.S.; revising requirements to qualify for public adjuster licenses; requiring that certain bonds remain in effect for a specified period after expiration of the license; amending s. 626.8651, F.S.; requiring that certain bonds remain in effect for a specified period after expiration of the public adjuster apprentice license; revising requirements for public adjuster apprentices to be, act as, or hold themselves out to be public adjust apprentices; amending s. 626.8696, F.S.; revising requirements for adjusting firm license applications; amending s. 626.8732, F.S.; requiring applicants for nonresident public adjuster licenses to maintain certain bonds after the expiration or termination of licenses; amending ss. 626.8734, 626.906, 626.912, 626.937, and 626.9953, F.S.; conforming provisions to changes made by the act; amending s. 633.135, F.S.; providing additional uses for firefighter funds; amending s. 633.216, F.S.; revising requirements for renewal of firesafety inspector certificates; amending s. 633.336, F.S.; providing administrative fines for violations by certified fire protection contractors; amending s. 633.408, F.S.;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1005 Advanced Air Mobility
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee, Fischer
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 728

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	15 Y, 0 N, As CS	Neuffer	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	12 Y, 0 N	Hicks	Davis
3) Commerce Committee		Neuffer	Hamon

SUMMARY ANALYSIS

The bill creates the Advanced Air Mobility Study Task Force (task force), adjunct to the Florida Department of Transportation (FDOT), to study the current state of development of the advanced air mobility industry and related laws, rules, regulations, and other requirements. The bill specifies the composition of the task force to include the FDOT secretary, or the secretary's designee, as the chair. The bill sets forth additional members to be on the task force, either by designation within the bill or by appointment of the Governor. Appointed members serve at the pleasure of the respective appointing authority. Members are entitled to reimbursement from the State Transportation Trust Fund for reasonable and necessary travel and per diem expenses incurred in the performance of their duties.

The FDOT must provide administrative support and facilities for the task force to perform its duties. The task force is directed to hold public hearings and receive public comment in locations throughout the state, or by electronic means, such as teleconference, and provide means for active participation. The committee must meet at the times and locations as the chair determines. Specifically, the task force must focus on:

- Assessment of the current state of development of the advanced air mobility industry, including the deployment of electric vertical take off and landing (eVTOL) aircraft, defined within the bill as a type of aircraft that uses electric power to hover, take off, and land vertically without a runway.
- Identification of federal, state, and local laws, rules, regulations, and other requirements that may impact the development of the advanced air mobility industry in the state, including the potential deployment of eVTOL aircraft and infrastructure.
- Recommendations for revisions to current state laws and regulations necessary to facilitate the continued development of the advanced air mobility industry and deployment of eVTOL aircraft and infrastructure in the state.
- The potential integration of advanced air mobility into local government transportation plans.

By October 1, 2023, the task force must submit its report of the findings and recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives. Any additional material which the task force deems appropriate may also be included in the report. Upon submission of the report, the task force is abolished. The bill provides for its expiration on December 31, 2023.

The bill does not appear to have a fiscal impact on state or local government revenues or local government expenditures. The bill will have a negative, but likely insignificant, fiscal impact on the State Transportation Trust Fund. These costs can be absorbed within existing resources.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Electric vertical take off and landing (eVTOL) aircraft are a type of aircraft that use electric power to hover, take off, and land vertically without a runway. Their ability to maneuver in smaller spaces offers new opportunities for mobility. Additionally, eVTOL aircraft offer a reduced environmental impact and noise pollution when compared to other vertical take off and landing (VTOL) aircraft. EVTOL aircraft are large enough to carry passengers without conventional helicopter flight controls.[1] The aircraft uses electric propulsion to lift and move itself through the air. The current direction of the industry suggests the intended use of eVTOL aircraft for urban air mobility, drone delivery, and various industrial applications.[2]

At present, eVTOL aircraft remain in the developmental stage. The Federal Aviation Administration (FAA) has approved certain types of VTOL aircraft, such as helicopters, for commercial use. To date, no eVTOL aircraft have received final FAA approval. Agreements have been made between private entities and the FAA for G1 certification, which is the first step toward final approval.[3] It is unclear when the first eVTOL will receive final FAA certification, with Joby Aviation claiming it still has "several years of aircraft testing ahead of [it]."[4]

One company, Lilium, has announced plans to build an eVTOL port in Lake Nona, Florida, with an estimated completion date of 2025.[5] The City of Orlando has declared this site as the country's first urban and regional air mobility network.[6] Lilium's goal is to connect more than 20 million Floridians within a 186-mile radius, serving several major cities, and create more than 100 jobs in the Orlando area with hundreds more following across the state. The company created a "vertiport" architecture for its newly proclaimed hub which it claims will offer functional and aesthetically unique characteristics that can easily be incorporated into existing transportation structures in both urban and suburban developments.[7]

Effect of the Bill

The bill creates the Advanced Air Mobility Study Task Force (task force), adjunct to the Florida Department of Transportation (FDOT), to study the advanced air mobility industry's current state of development and related laws and regulations. Task force members are not provided compensation for their service, but are entitled to receive reimbursement for reasonable and necessary per diem and travel expenses pursuant to section 112.061, F.S.,[8] payable from the State Transportation Trust Fund. The FDOT is charged with providing administrative support and facilities for the task force to perform its duties.

The task force is composed of the following members:

- The secretary of FDOT or the secretary's designee, serving as chair of the task force.

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[1] *See* Vertical Flight Society, https://evtol.news/ (last visited January 21, 2022).
[2] *See* NASA, Fixed Wing Angle eVTOL, https://technology.nasa.gov/patent/LAR-TOPS-338 (last visited January 21, 2022).
[3] *See* Archer Aviation, FAA Approves G-1 Certification Basis for Archer, Propelling it Forward on its Path to FAA Type Certification, GlobeNewswire (September 7, 2021), https://www.globenewswire.com/ (last visited January 20, 2022).
[4] *See* Grace Nehls, *Joby Aviation accelerates eVTOL aircraft certification*, CompositesWorld (February 9, 2021), https://www.compositesworld.com/news/joby-aviation-accelerates-evtol-aircraft-certification (last visited January 21, 2022).
[5] *See* Lilium, *Lilium partners with Tavistock development and City of Orlando to establish first region in the US*, https://lilium.com/newsroom-detail/lilium-partners-with-tavistock-and-orlando (last visited January 21, 2022).
[6] *Id.*
[7] *Id.*
[8] *See* s. 112.061, F.S. (governing per diem and travel expenses of public officers, employees, and authorized persons).

- One member of the Senate, appointed by the Senate President.
- One member of the House of Representatives, appointed by the House Speaker.
- The executive director of the Florida League of Cities or the director's designee.
- The executive director of the Florida Association of Counties or the director's designee.
- The president of Space Florida or the president's designee.
- Fourteen members appointed by the Governor, including:
    - Two members, each representing a different city having a population of more than 250,000 persons.
    - One member representing a city having a population of fewer than 250,000 persons.
    - One member representing a metropolitan planning organization.
    - One member representing the State University System.
    - Three members representing the advanced air mobility industry.
    - Two members representing the business community.
    - One member representing an organization in the state which advocates for persons with disabilities.
    - One member representing an organization in the state which advocates for underserved transportation areas.
    - One member representing a public airport located in a county having a population of more than 1 million persons.
    - One member representing a public airport located in a county having a population of fewer than 1 million persons.

All appointed members serve at the pleasure of the appointing authority.

The task force is directed to hold public hearings and receive public comment in locations throughout the state, or by electronic means, such as teleconference, and provide means for active participation. The committee must meet at the times and locations as the chair determines. Specifically, the task force must focus on:

- Assessment of the current state of development of the advanced air mobility industry, including the deployment of eVTOL aircraft, defined within the bill as a type of aircraft that uses electric power to hover, take off, and land vertically without a runway.
- Identification of federal, state, and local laws, rules, regulations, and other requirements that may impact the development of the advanced air mobility industry in the state, including the potential deployment of eVTOL aircraft and infrastructure.
- Recommendations for revisions to current state laws and regulations necessary to facilitate the continued development of the advanced air mobility industry and deployment of eVTOL aircraft and infrastructure in the state.
- The potential integration of advanced air mobility into local government transportation plans.

After completion of its review, but before October 1, 2023, the task force must submit a report of its findings and recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives. Any additional material which the task force deems appropriate may also be included in the report. Upon submission of the report, the task force is abolished. The bill provides for its expiration on December 31, 2023.

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Creates the Advanced Air Mobility Study Task Force; providers for membership and duties.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The FDOT will incur minor costs to provide staff, assistance, and facilities as deemed necessary for the task force to perform its duties. In addition, the bill authorizes FDOT to reimburse task force members for per diem and travel expenses incurred at the discretion of the chair. The task force has the option to hold public meetings by electronic means and receive public comments through a website or by mail in lieu of travel. Therefore, travel costs are indeterminate, but likely insignificant. The bill authorizes expenditures related to the task force to be paid from the State Transportation Trust Fund. The FDOT has indicated that these costs can be absorbed within existing resources.

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. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2022, the Tourism, Infrastructure & Energy Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarifies that task force members will be reimbursed from the State Transportation Trust Fund for reasonable and necessary travel and per diem expenses incurred in serving.
- Specifies that the Department of Transportation shall provide staff, assistance, and facilities as are deemed necessary for the task force.
- Clarifies that the chair of the task force will determine the time and location of meetings.
- Specifies that eVTOL aircraft are the focus of the task force and defines eVTOL.
- Clarifies the matters to be addressed by the task force.

This analysis is drafted to the committee substitute as approved by the Tourism, Infrastructure & Energy Subcommittee.

A bill to be entitled

An act relating to advanced air mobility; creating the Advanced Air Mobility Study Task Force adjunct to the Department of Transportation; specifying the composition of the task force; providing that task force members serve at the pleasure of their appointing authority; providing that task force members shall serve without compensation but are entitled to certain reimbursement; providing for task force funding; specifying duties of the task force; defining the term "eVTOL aircraft"; requiring the task force to submit a certain report to the Governor and the Legislature by a specified date; providing for abolishment of the task force; providing for expiration; providing an effective date.

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

Section 1. Advanced Air Mobility Study Task Force.—

(1) The Advanced Air Mobility Study Task Force, a task force as defined in s. 20.03(8), Florida Statutes, is created adjunct to the Department of Transportation. The task force is composed of the following members:

(a) The secretary of the Department of Transportation or the secretary's designee, who shall serve as chair of the task

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

force.

(b) One member of the Senate appointed by the President of the Senate.

(c) One member of the House of Representatives appointed by the Speaker of the House of Representatives.

(d) The executive director of the Florida League of Cities or the director's designee.

(e) The executive director of the Florida Association of Counties or the director's designee.

(f) The president of Space Florida or the president's designee.

(g) Appointed by the Governor:

1. Two members, each representing a different city having a population of more than 250,000 persons.

2. One member representing a city having a population of fewer than 250,000 persons.

3. One member representing a metropolitan planning organization.

4. One member representing the State University System.

5. Three members representing the advanced air mobility industry.

6. One member representing an organization in this state which advocates for persons with disabilities.

7. Two members representing the business community.

8. One member representing an organization in this state

which advocates for underserved transportation areas.

9. One member representing a public airport located in a county having a population of more than 1 million persons.

10. One member representing a public airport located in a county having a population of fewer than 1 million persons.

(2) Appointed members shall serve at the pleasure of the appointing authority.

(3) Task force members shall serve without compensation but are entitled to reimbursement for reasonable and necessary per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061, Florida Statutes.

(4) The Department of Transportation shall provide staff, assistance, and facilities as are deemed necessary for the task force to perform its duties. Funding for the task force shall be paid from the State Transportation Trust Fund.

(5) The task force shall meet at the time and location as the chair determines. The task force shall hold public hearings and receive public comment in locations throughout this state, or by electronic means, such as teleconference, provided that a means for active participation is accommodated.

(6) The task force shall:

(a) Assess and describe the current state of development of the advanced air mobility industry, specifically the deployment of eVTOL aircraft. As used in this section, the term "eVTOL aircraft" means a type of aircraft that uses electric

power to hover, take off, and land vertically without a runway.

(b) Identify federal, state, and local laws, rules, regulations, and other requirements that may impact the development of the advanced air mobility industry in this state, including the potential deployment of eVTOL aircraft and infrastructure.

(c) Recommend any changes to state laws and regulations necessary to facilitate the continued development of the advanced air mobility industry and deployment of eVTOL aircraft and infrastructure in this state.

(d) Evaluate the potential integration of advanced air mobility into local government transportation plans.

(7) By October 1, 2023, the task force shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report including the information, findings, and recommendations required pursuant to subsection (6) and any other relevant material deemed appropriate by the task force. Upon submission of the report, the task force is abolished.

(8) This section expires December 31, 2023.

Section 2. This act shall take effect July 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1023 Insolvent Insurers
SPONSOR(S): Fabricio
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	16 Y, 0 N	Herendeen	Luczynski
2) State Administration & Technology Appropriations Subcommittee	13 Y, 0 N	Lee	Topp
3) Commerce Committee		Herendeen	Hamon

SUMMARY ANALYSIS

As a condition of selling and servicing insurance in Florida, insurers must be members of a guaranty association associated with the lines of coverage the insurer sells.

If an admitted insurer becomes unsound or insolvent, the Office of Insurance Regulation (OIR) may place the insurer in confidential administrative supervision, and, if rehabilitation is impossible, recommend liquidation by the Department of Financial Services, Division of Rehabilitation and Liquidation (DFS).

Existing insurance policies are cancelled 30 days after a judge issues an order of liquidation and the applicable guaranty fund becomes responsible for managing any outstanding claims.

The bill makes minor changes to procedures of the Florida Insurance Guaranty Association (FIGA) and Florida Workers' Compensation Insurance Guaranty Association (FWCIGA), and requires that claims data from insolvent insurers be used in the ratemaking process for workers' compensation insurance.

If the assets of an insolvent estate are not enough to pay covered claims, the applicable guaranty fund may ask OIR to levy assessments against fund members. The bill makes technical changes to the laws governing assessments that would allow certain property and casualty insurers to: 1) pay assessments in quarterly installments rather than one full payment on a date selected by OIR; and 2) decline to recoup the cost of assessments if the cost of placing a surcharge on policies exceeds the cost of the assessment.

OIR adopts rates for workers' compensation insurance annually, based on recommendations from the National Council on Compensation Insurance (NCCI), which evaluates risks associated with more than 500 occupational classes by tracking covered claims of insurers.

Insurers that are in an unsound financial condition or become insolvent do not always report claims to NCCI. When all claims are not reported, the adequacy of workers' compensation insurance rates can be affected and the experience rating modification factor of an individual insured may be inaccurate. When an insurer is ordered into liquidation, the responsibility for claims data reporting falls to DFS, as court appointed receiver, and FWCIGA, as administrator of any open claims.

The bill adds the impact of missing claims data from insolvent insurers to a list of factors that are used in the determination of workers' compensation rates.

The bill has no fiscal impact on state or local government and a minimal impact on the private sector. The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Insolvent Insurers

The Office of Insurance Regulation (OIR) monitors the financial strength of insurers authorized to do business in Florida by reviewing annual and quarterly financial statements submitted to the National Association of Insurance Commissioners. Florida law establishes required minimum surplus[1] and risk-based capital requirements[2] for different types of insurers, identifies the types of investments that may be designated as an admitted asset on the insurer's financial statements,[3] and places restrictions on the investments an insurer makes in its subsidiaries or affiliated companies.[4]

Insurers Must Belong to a Guaranty Fund

As a condition of selling and servicing insurance in Florida, insurers must be members of the guaranty association associated with the lines of coverage the insurer sells. The Insurance Code authorizes the:

- Florida Insurance Guaranty Association (FIGA), for property and casualty insurances, including homeowners and automobile insurance;[5]
- Florida Life & Health Guaranty Association (FLAHIGA), for life and health insurance policies, annuity contracts, and related supplemental insurance contracts;[6] and
- Florida Workers' Compensation Insurance Guaranty Association (FWCIGA), for workers' compensation and employer liability coverages.[7]

Similar protections are available to persons who subscribe to Health Maintenance Organizations through the Health Maintenance Organization Consumer Assistance Plan.[8]

Insolvency

If an insurer becomes insolvent,[9] OIR may place the insurer in confidential administrative supervision. If the insurer cannot be rehabilitated, OIR may refer the matter to the Department of Financial Services, Division of Liquidation and Rehabilitation (DFS), for appointment of a receiver to liquidate the insurance company.[10]

When a circuit court judge issues an order of liquidation, the order appoints DFS as receiver for the insolvent insurer's estate and requires that the appropriate guaranty fund administer all outstanding claims.[11]

Existing policies are cancelled 30 days after the order of liquidation, unless: the policy expires prior to the 30-day deadline; 2) the insured or the receiver finds a replacement policy with another insurer, or 3) the policyholder terminates the policy.[12]

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[1] Ss. 624.407 and 627.408, F.S.
[2] S. 624.4085, F.S.
[3] Ch. 625, part II, F.S.
[4] Ss. 625.325 and 625.332, F.S.
[5] Ss. 631.50-631.70, F.S.
[6] Ss. 631.711-631.738, F.S.
[7] Ss. 631.901-631.932, F.S.
[8] Ss. 631.811-631.828, F.S.
[9] S. 631.011(14), F.S. states: "Insolvency" means that all the assets of the insurer, if made immediately available, would not be sufficient to discharge all its liabilities or that the insurer is unable to pay its debts as they become due in the usual course of business. When the context of any provision of this code so indicates, insolvency also includes and is defined as "impairment of surplus," as defined in subsection (13), and "impairment of capital," as defined in subsection (12).
[10] Ss. 624.81 and 631.051, F.S.
[11] S. 631.395, F.S.
[12] S. 631.252(1), F.S.

The applicable guaranty fund becomes responsible for managing any outstanding claims that were pending upon appointment of the receiver or filed during the 30-day cancellation period.

Assessments

When the assets of an insolvent estate are not enough to pay covered claims, the guaranty fund may ask OIR to levy assessments against fund members.[13]

Insurers that belong to FIGA may recoup the cost of assessments by applying a uniform surcharge to all policies of the kind identified in OIR's assessment order.[14]

Insurers that belong to FLAHIGA may receive a refund of contributions that exceed the amount needed to carry out the obligations of FLAHIGA, and may offset the cost of assessments against either the insurer's liability for premium taxes or corporate income taxes.[15]

Insurers that belong to FWCIGA pay assessments by collecting surcharges placed on policies and remitting the surcharge to FWCIGA.[16]

Workers' Compensation Rates

All carriers selling workers' compensation insurance in Florida subscribe to the National Council on Compensation Insurance (NCCI), an industry group that develops policy forms, premium rates, and rules for its members in 37 states.[17]

NCCI develops rates annually, based on the risks associated with more than 500 occupational classes. OIR reviews and approves proposed rates in accordance with the standards established by Florida law.[18] The following factors are used in the determination of workers' compensation insurance rates:

- The past loss experience and prospective loss experience within and outside this state;
- The conflagration and catastrophe hazards;
- A reasonable margin for underwriting profit and contingencies;
- Dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers;
- Investment income on unearned premium reserves and loss reserves;
- Past expenses and prospective expenses, both those countrywide and those specifically applicable to this state; and
- All other relevant factors, including judgment factors, within and outside this state.[19]

To calculate premium, the insurer applies rates approved for specific jobs, called class codes, to every $100 of an employer's payroll. This results in a manual rate that is adjusted by an experience rating factor calculated by NCCI, based on the employer's loss experience in the prior 3 years. An employer with better than average loss experience may receive a credit; an employer with above average losses will pay more than the manual rate.[20]

Insurers report claims to NCCI, so NCCI can track loss experience across industries, identify trends associated with different types of risks, and adjust rates associated with specific class codes accordingly.[21]

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[13] Ss. 631.57, 631.718, and 631.914, F.S.
[14] S. 631.57(3), F.S.
[15] Ss. 631.718(5) and 631.72(1), F.S.
[16] S. 631.914(1), F.S.
[17] S. 627.091(3), F.S.
[18] Ss. 627.062 and 627.072, F.S.
[19] S. 627.072, F.S.
[20] National Council on Compensation Insurance, *ABCs of Experience Rating*, https://www.ncci.com/Articles/Documents/UW_ABC_Exp_Rating.pdf (last visited Feb. 14, 2022).
[21] *Id.*

Workers' Compensation Claims Reporting by Insolvent Insurers

Insurers that are in an unsound financial condition or become insolvent do not always report claims to NCCI. When all claims are not reported, the adequacy of workers' compensation insurance rates can be affected and the experience rating modification factor of an individual insured may be inaccurate. When an insurer is ordered into liquidation, the responsibility for claims data reporting falls to DFS, as court appointed receiver, and FWCIGA, as administrator of any open claims.

The impact on missing claims data from insolvent insurers is discussed in an actuarial analysis conducted for FWCIGA, which focused on the 2017 insolvency of Guarantee Insurance Company.[22] The study concluded that the insolvency of Guarantee Insurance Company (GIC) – which had 8,600 active policies, 10,500 clams and $487 million in claim liabilities when it was placed into liquidation – did not create significant market disruption because policyholders were able to obtain coverage in the voluntary market.[23] However, if accurate claims data had been reported to NCCI, workers' compensation rate decreases approved in 2016 and 2018 could have been slightly smaller.[24] The claim's experience GIC reported to NCCI was slightly worse than average; during liquidation, it was determined that GIC's actual experience was understated by nearly $100 million.[25]

The actuarial analysis warned that missing claims data could impact the overall statewide rate for workers' compensation insurance if Florida were to experience multiple insolvencies at the same time. Similarly, missing claims data for one insolvent insurer with a book of business concentrated in a single industry group or class code could have a material impact the affected industry group or class code.[26]

The actuary recommended that the claims data of insolvent insurers be collected and reported to NCCI – to the extent that such data can be reported consistently and at a reasonable cost – for inclusion in ratemaking and experience rating.[27]

NCCI reviews the characteristics of an insolvent carrier (prior premium market share, distribution of premium writings across individual job classifications, and whether prior employers will be able to obtain coverage in the voluntary market) to assess the impact the insolvency may have on future worker's compensation rates.[28] Claims data reported during receivership is subject to data validation checks prior to being used in ratemaking.[29]

Effect of the Bill

For FIGA, the bill amends s. 631.57, F.S., to state that property and casualty insurers are not required to recoup the cost of assessments levied by OIR on behalf of FIGA. Additionally, if the FIGA board of directors certifies the need for an assessment, the board may ask OIR to permit payments on a quarterly basis throughout the assessment year, instead of full payment on a date selected by OIR at the commencement of the assessment year.

For FWCIGA, the bill amends s. 631.914, F.S., to permit payment of assessments in a single payment or on a quarterly basis, at the discretion of the FWCIGA board based on cash flow needs. Currently, workers' compensation insurance carriers may pay assessments on a quarterly basis only if the FWCIGA board

[22] Perr & Knight, *Insolvency Materiality Analysis for the Florida Workers' Compensation Insurance Guaranty Association*, May 29, 2019.
[23] *Id*. at 4.
[24] Memo to the Board of Directors of the Florida Workers' Compensation Insurance Guaranty Association, Inc., by Tom Streukens, Sept. 19, 2019.
[25] *Id*.
[26] *Id*. at 17.
[27] *Id*. at 19-20.
[28] Email from George Fejoo, Governmental Affairs Consultant with Floridian Partners, RE: FWCIGA Post-Liquidation Data Reporting (Jan. 19, 2022).
[29] *Id.*

determines that full payment of the assessment would result in an impairment of an insurer's required minimum amount of capital and surplus.

For workers' compensation rates, the bill amends s. 627.072, F.S., to add the impact of missing data from insolvent insurers to the list of factors that are used in the determination of workers' compensation insurance rates. Due to the difficulty of obtaining and validating claims data of an insolvent insurer, the bill permits the use of "prior reported data" and "all other relevant information" during the ratemaking process.

B. SECTION DIRECTORY:

Section 1. Amends s. 627.072, F.S., making and use of rates.

Section 2. Amends s. 631.57, F.S., powers and duties of the association.

Section 3. Amends s. 631.914, F.S., assessments.

Section 4. Provides an effective date of July 1, 2022.

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 provides flexibility to insurance carriers by providing the option of paying assessments on an annual or quarterly basis. Insurance carriers would not be required to recoup the cost of an assessment if the administrative cost of recoupment outweighs the benefit of recoupment.

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 neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to insolvent insurers; amending s. 627.072, F.S.; providing required factors to be used in the determination and fixing of rates for premiums paid to insolvent insurers for specified coverages; amending s. 631.57, F.S.; authorizing insurers to elect not to recoup advance assessments paid to the Florida Insurance Guaranty Association, Incorporated; revising provisions relating to payments of assessments and insurers' reconciliation reports to the association; requiring insurers to treat insureds' failure to pay surcharges, rather than recoupment charges, as failure to pay premiums; revising construction; providing that insurers are liable for surcharges and are not liable for uncollectible surcharges, rather than emergency assessments; deleting a requirement that insurers treat insureds' failure to pay emergency assessments as failure to pay premiums; amending s. 631.914, F.S.; revising provisions relating to insurers' collection of surcharges and payments of assessments to the Florida Workers' Compensation Insurance Guaranty Association, Incorporated; providing an effective date.

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

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

Section 1. Paragraphs (b) through (g) of subsection (1) of section 627.072, Florida Statutes, are redesignated as paragraphs (c) through (h), respectively, and a new paragraph (b) is added to that subsection, to read:

627.072 Making and use of rates.—

(1) As to workers' compensation and employer's liability insurance, the following factors shall be used in the determination and fixing of rates:

(b) The impact resulting from the past loss experience and prospective loss experience for insurers whose data are missing from statewide experience due to insolvency. Prior reported data for such insurers and all other relevant information may be used to assess the impact on rates;

Section 2. Paragraph (c) and paragraphs (f) through (i) of subsection (3) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(3)

(c) The Legislature finds and declares that all assessments paid by an insurer or insurer group as a result of a levy by the office, including assessments levied pursuant to paragraph (a) and emergency assessments levied pursuant to paragraph (e), constitute advances of funds from the insurer to the association. An insurer may fully recoup such advances by

applying the uniform assessment percentage levied by the office to all policies of the same kind or line as were considered by the office in determining the assessment liability of the insurer or insurer group as set forth in paragraph (f). An insurer remitting an assessment to the association as required by subparagraph (f)1. or subparagraph (f)2. may elect to not recoup advances.

1. Assessments levied under subparagraph (f)1. are paid before policy surcharges are collected and result in a receivable for policy surcharges collected in the future. This amount, to the extent it is likely that it will be realized, meets the definition of an admissible asset as specified in the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No. 4. The asset shall be established and recorded separately from the liability regardless of whether it is based on a retrospective or prospective premium-based assessment. If an insurer is unable to fully recoup the amount of the assessment because of a reduction in writings or withdrawal from the market, the amount recorded as an asset shall be reduced to the amount reasonably expected to be recouped.

2. Assessments levied under subparagraph (f)2. are paid after policy surcharges are collected so that the recognition of assets is based on actual premium written offset by the obligation to the association.

(f)1. The association, office, and insurers remitting assessments pursuant to paragraph (a) or paragraph (e) must comply with the following:

a. In the order levying an assessment, the office shall specify the actual percentage amount to be advanced to the association and thereafter collected uniformly from all the policyholders of insurers subject to the assessment and the date on which the assessment year begins, which may not begin before 90 days after the association board certifies such an assessment.

b. Insurers shall make an initial payment to the association before the beginning of the assessment year on or before the date specified in the order of the office. Each insurer shall have at least 30 days' written notice as to the date on which the initial assessment payment is due and payable. The association may request that the order issued by the office authorize insurers to remit the advance payments in quarterly installments throughout the assessment year.

c. Insurers that have written insurance in the calendar year before the year in which the assessment is certified by the board shall make payments ~~an initial payment~~ based on the direct written premium in this state for the classes protected by the account from the previous calendar year as set forth in the insurer's annual statement, multiplied by the uniform percentage of premium specified in the order issued by the office. Insurers

that have not written insurance in the previous calendar year in any of the lines under the account which are being assessed, but which are writing insurance as of, or after, the date the board certifies the assessment to the office, shall pay an amount based on a good faith estimate of the amount of direct written premium anticipated to be written in the subject lines of business for the assessment year, multiplied by the uniform percentage of premium specified in the order issued by the office.

d. Insurers shall file one or more ~~a~~ reconciliation reports ~~report~~ with the association which indicate ~~indicates~~ the amount of ~~the initial~~ payment to the association ~~before the assessment year~~, whether such amount was based on direct written premium contained in a previous calendar year annual statement or a good faith projection, the amount actually collected during the assessment year, and such other information contained on a form and schedule adopted by the association and provided to the insurers in advance. If the insurer collected from policyholders more surcharges than the amount initially paid, the insurer shall pay the excess amount to the association. If the insurer collected surcharges from policyholders in an amount that ~~which~~ is less than the amount initially paid to the association, the association shall credit the insurer that amount against future assessments. Such payment reconciliation report, and any payment of excess amounts collected from policyholders, shall be

completed and remitted to the association within 90 days after the end of the assessment year. The association shall send a final reconciliation report on all insurers to the office within 120 days after each assessment year.

e. Insurers remitting reconciliation reports under this paragraph to the association are subject to s. 626.9541(1)(e).

2. For assessments required under paragraph (a) or paragraph (e), the association may use a quarterly installment method instead of the method described in sub-subparagraphs 1.b. and c. or in combination thereof based on the association's projected cash flow. If the association projects that it has cash on hand for the payment of anticipated claims in the applicable account for at least 6 months, the board may make an estimate of the assessment needed and may recommend to the office the assessment percentage that may be collected as a quarterly assessment. The office may, in the order levying the assessment on insurers, specify that the assessment is due and payable quarterly as the funds are collected from insureds throughout the assessment year, in which case the assessment shall be a uniform percentage of premium collected during the assessment year and shall be collected from all policyholders with policies in the classes protected by the account. All insurers shall collect the assessment without regard to whether the insurers reported premium in the year preceding the assessment. Insurers are not required to advance funds if the

association and the office elect to use the quarterly installment option. All funds collected shall be retained by the association for the payment of current or future claims. This subparagraph does not alter the obligation of an insurer to remit assessments levied pursuant to this subsection to the association. Insurers shall file one or more reconciliation reports with the association which indicate the amount actually collected during the assessment year, and such other information contained on a form and schedule adopted by the association and provided to the insurers in advance.

(g) Insurers shall treat the failure of an insured to pay a surcharge ~~recoupment charge~~ as a failure to pay the premium.

(h) Assessments levied under this subsection are levied upon insurers. This subsection does not create a cause of action by a policyholder with respect to the levying of, or a policyholder's duty to pay, such assessments and related surcharges.

(i) Assessments levied under this subsection are not premium and are not subject to the premium tax, to any fees, or to any commissions. An insurer is liable for any surcharges ~~emergency assessments~~ that the insurer collects and ~~shall treat the failure of an insured to pay an emergency assessment as a failure to pay the premium. An insurer~~ is not liable for uncollectible surcharges ~~emergency assessments~~.

Section 3. Paragraphs (c) and (d) of subsection (1) and

paragraph (c) of subsection (4) of section 631.914, Florida Statutes, are amended to read:

631.914 Assessments.—

(1)

(c) The office shall levy the uniform surcharge percentage on all policies of the same kind or line as were considered by the office in determining the assessment liability of the insurer. Member insurers shall collect policy surcharges at a uniform percentage rate on new and renewal policies issued and effective during the assessment year ~~period of 12 months~~ beginning on January 1, April 1, July 1, or October 1, whichever is the first day of the following calendar quarter as specified in an order issued by the office. The policy surcharge may not begin until 90 days after the board of directors certifies the assessment.

(d) The association may use a pass-through ~~an installment~~ method to require the insurer to remit the policy surcharge as collected or may require the insurer to remit the assessment to the association before collecting the policy surcharge.

1. If the association elects to use the pass-through ~~installment~~ method, the office may, in the order levying the assessment on insurers, specify that the policy surcharge is due and payable quarterly as collected throughout the assessment year. Insurers shall collect policy surcharges at a uniform percentage rate specified by order as described in paragraph

(c). Insurers are not required to advance funds if the association and the office elect to use the pass-through ~~installment~~ option. Assessments levied under this subparagraph are paid after policy surcharges are collected, and the recognition of assets is based on actual policy surcharges collected offset by the obligation to the association.

2. If the association elects to require insurers to remit the assessment before surcharging the policy, the following shall apply:

a. On or before the date specified in the order of the office, insurers shall make an initial advance payment to the association of the percentage specified in the order multiplied by the insurer's direct written premiums received in this state for the preceding calendar year for the kinds of insurance included within such account before the beginning of the assessment year. The board may authorize an insurer to pay an assessment in a single payment or on a quarterly basis, based on cash-flow needs.

b. The levy order shall provide each insurer so assessed at least 30 days' written notice of the date the initial assessment payment is due and payable by the insurer.

c. Insurers shall collect policy surcharges at a uniform percentage rate specified by the order, as described in paragraph (c).

d. Assessments levied under this subparagraph and paid by

an insurer constitute advances of funds from the insurer to the association and result in a receivable for policy surcharges to be billed in the future. The amount of billed policy surcharges, to the extent it is likely that it will be realized, meets the definition of an admissible asset as specified in the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No. 4. The asset shall be established and recorded separately from the liability. If an insurer is unable to fully recoup the amount of the assessment, the amount recorded as an asset shall be reduced to the amount reasonably expected to be recouped.

3. Insurers must submit a reconciliation report to the association within 120 days after the end of the 12-month assessment year ~~period~~ and annually thereafter for a period of 2 ~~3~~ years. The report must indicate the amount of the initial payment or installment payments made to the association and the amount of policy surcharges collected for the assessment year. If the insurer's reconciled obligation is more than the amount paid to the association, the insurer shall pay the excess policy surcharges collected to the association. If the insurer's reconciled obligation is less than the initial amount paid to the association, the association shall return the overpayment to the insurer.

(4)

~~(c) The board may allow an insurer to pay an assessment on~~

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~~a quarterly basis.~~

Section 4. This act shall take effect July 1, 2022.

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

COMMERCE COMMITTEE

HB 1023 by Rep. Fabricio
Insolvent Insurers

AMENDMENT SUMMARY
February 17, 2022

Amendment 1 by Rep. Fabricio (Line 71):

- Adds clarifying language relating to the payment of guaranty fund assessments when an insurer declines to recoup an assessment through policy surcharges; and
- Adds clarifying language relating to the treatment of guaranty fund assessments on an insurer's annual financial statement.

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: Commerce Committee
Representative Fabricio offered the following:

Amendment (with title amendment)

Remove lines 71-160 and insert:

to be recouped. If an insurer elects not to recoup advances, the amount recorded as an asset shall be reduced to zero.

2. Assessments levied under subparagraph (f)2. are paid after policy surcharges are collected so that the recognition of assets is based on actual premium written offset by the obligation to the association. If an insurer elects not to recoup advances, the amount recorded as an asset shall be reduced to zero.

(f)1. The association, office, and insurers remitting assessments pursuant to paragraph (a) or paragraph (e) must comply with the following:

a. In the order levying an assessment, the office shall specify the actual percentage amount to be advanced to the association and thereafter collected uniformly from all the policyholders of insurers subject to the assessment and the date on which the assessment year begins, which may not begin before 90 days after the association board certifies such an assessment.

b. Insurers shall make an initial payment to the association before the beginning of the assessment year on or before the date specified in the order of the office. Each insurer shall have at least 30 days' written notice as to the date on which the initial assessment payment is due and payable. The association may request that the order issued by the office authorize insurers to remit the advance payments in quarterly installments.

c. Insurers that have written insurance in the calendar year before the year in which the assessment is certified by the board shall make payments ~~an initial payment~~ based on the direct written premium in this state for the classes protected by the account from the previous calendar year as set forth in the insurer's annual statement, multiplied by the uniform percentage of premium specified in the order issued by the office. Insurers that have not written insurance in the previous calendar year in any of the lines under the account which are being assessed, but which are writing insurance as of, or after, the date the board

certifies the assessment to the office, shall pay an amount based on a good faith estimate of the amount of direct written premium anticipated to be written in the subject lines of business for the assessment year, multiplied by the uniform percentage of premium specified in the order issued by the office.

d. Insurers shall file one or more ~~a~~ reconciliation reports ~~report~~ with the association which indicate ~~indicates~~ the amount of ~~the initial~~ payment to the association ~~before the assessment year~~, whether such amount was based on direct written premium contained in a previous calendar year annual statement or a good faith projection, the amount actually collected during the assessment year, and such other information contained on a form and schedule adopted by the association and provided to the insurers in advance. If the insurer collected from policyholders more surcharges than the amount initially paid, the insurer shall pay the excess amount to the association. If the insurer collected surcharges from policyholders in an amount that ~~which~~ is less than the amount initially paid to the association, the association shall credit the insurer that amount against future assessments. Such payment reconciliation report, and any payment of excess amounts collected from policyholders, shall be completed and remitted to the association within 90 days after the end of the assessment year. The association shall send a

final reconciliation report on all insurers to the office within 120 days after each assessment year.

e. Insurers remitting reconciliation reports under this paragraph to the association are subject to s. 626.9541(1)(e).

2. For assessments required under paragraph (a) or paragraph (e), the association may use a quarterly installment method instead of the method described in sub-subparagraphs 1.b. and c. or in combination thereof based on the association's projected cash flow. If the association projects that it has cash on hand for the payment of anticipated claims in the applicable account for at least 6 months, the board may make an estimate of the assessment needed and may recommend to the office the assessment percentage that may be collected as a quarterly assessment. The office may, in the order levying the assessment on insurers, specify that the assessment is due and payable quarterly as the funds are collected from insureds throughout the assessment year, in which case the assessment shall be a uniform percentage of premium collected during the assessment year and shall be collected from all policyholders with policies in the classes protected by the account.

a. All insurers shall pay ~~collect~~ the assessment to the association without regard to whether the insurers reported premium in the year preceding the assessment.

b. Insurers are not required to advance funds if the association and the office elect to use the quarterly installment option.

c. An insurer that elects not to recoup the assessment shall make quarterly payments to the association equal to the amount of premium written in the previous quarter for the classes protected by the account, multiplied by the uniform percentage of premium specified in the order issued by the office.

d. All funds paid to the association ~~collected~~ shall be retained by the association for the payment of current or future claims.

e. Insurers shall file one or more reconciliation reports with the association which indicate the amount actually collected during the assessment year, and such other information contained on a form and schedule adopted by the association and provided to the insurers in advance.

This subparagraph does not alter the obligation of an insurer to remit assessments levied pursuant to this subsection to the association.

T I T L E A M E N D M E N T

Remove lines 9-11 and insert:
providing the calculation of insurers' assets under a specified circumstance; prohibiting insurers' assets from being recorded under a specified circumstance; revising provisions relating to payments of assessments and insurers' reconciliation reports to the association; requiring insurers to pay assessments to the association, rather than to collect such assessments; specifying the payments that certain insurers must make to the association; requiring insurers to treat insureds'

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1233 Online Training for Private Security Officers
SPONSOR(S): Regulatory Reform Subcommittee, Fine
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1474

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	12 Y, 4 N, As CS	Thompson	Anstead
2) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	White	Pigott
3) Commerce Committee		Thompson	Hamon

SUMMARY ANALYSIS

The Division of Licensing within the Department of Agriculture and Consumer Services (DACS) is responsible for the licensure and regulation of private investigation, private security, and recovery services, including Class "D" unarmed Security Officer and Class "G" Statewide Firearm license applicants.

An applicant for a Class "D" unarmed Security Officer license must submit proof of successful completion of a minimum of 40 hours of professional training at a Class "DS" Security Officer School or Training Facility licensed by DACS. A Class "D" Security Officer is not permitted to carry a firearm unless such licensee also obtains a Class "G" Statewide Firearm license.

An applicant for a Class "G" Statewide Firearm license must satisfy minimum training criteria for firearms established by DACS rule, including 28 hours of range and classroom training taught and administered by a Class "K" Firearms Instructor licensee. No more than eight hours of such training may consist of range training.

The bill:

- Allows 21 of the 28 hour training requirement for a Class "G" Statewide Firearm license to be conducted in-person or online instead of in the classroom, and no more than eight hours may consist of range training.
- Allows the 40 hour training requirement for Class "D" Security Officer licensure to be conducted in-person or online.
- Requires DACS to verify an applicant's identity, attendance, and successful completion of the training.
- Provides that an online training course must:
  - Include security questions to ensure the applicant is using the computer or mobile device.
  - Set a minimum amount of time that each applicant must spend on each screen.
  - Include randomized test questions.

The bill also requires an online training course for a Class "D" or "G" license to be attached to and conducted by a licensed school or training facility with a physical location. A firearms instructor teaching an online training course must work for a licensed school or training facility that has a minimum $1 million insurance policy and is registered, permitted, or licensed by DACS.

The bill may have an insignificant negative fiscal impact on the state that can be absorbed within existing resources.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Department of Agriculture and Consumer Services (DACS) supports and promotes Florida agriculture, protects the environment, safeguards consumers, and ensures the safety and wholesomeness of food.[1] The Division of Licensing (Division) within DACS administers Florida's concealed weapon licensing program[2] and oversees Florida's private investigative, private security, and recovery services industries.[3] The Division's regulatory oversight of those services includes licensing, enforcing compliance standards, and ensuring public protection from unethical business practices and unlicensed activity.[4]

Private Investigative and Security Services

Currently, the Division offers 22 different types of private investigative, private security, and recovery services licenses and four different types of concealed weapon or firearm licenses. As of December 31, 2021, the Division had issued a total of 169,758 private investigative, private security, and recovery services licenses and 2,459,530 concealed weapon permits, to qualified applicants. The following chart provides a breakdown of the total number of each license type.[5]

License Type	License Title	Total
C	Private Investigators	6,992
CC	Private Investigator Interns	1,333
A	Private Investigative Agencies	2,627
AA	Private Investigative Agency Branch Offices	21
MA	Private Investigative Agency Managers	81
M	Private Investigative/Security Agency Managers	473
D	Security Officers	124,996
B	Security Agencies	1,836
BB	Security Agency Branch Offices	181
MB	Security Managers	1,395
AB	Security Agency/Private Investigative Agency Branch Offices	19
DS	Security Officer Schools	378
DI	Security Officer Instructors	1,705
G	Statewide Firearm Licenses	26,026
K	Firearms Instructors	617
E	Recovery Agents	743
EE	Recovery Agent Interns	282
R	Recovery Agencies	282
RR	Recovery Agency Branch Offices	38
MR	Recovery Agency Managers	1
RS	Recovery Agent Schools	6

[1] Department of Agriculture and Consumer Services, *About*, http://www.freshfromflorida.com/About/ (last visited Mar. 7, 2019).
[2] S. 790.06, F.S.
[3] Ch. 493, F.S.
[4] Office of Program Policy Analysis and Government Accountability, Government Program Summaries, Department of Agriculture and Consumer Services Licensing, https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4101 (last visited Jan. 23, 2022).
[5] The Florida Department of Agriculture and Consumer Services, *Division of Licensing Statistical Reports*, https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports (last visited Jan. 23, 2022).

RI	Recovery Agent Instructors	9
Subtotal of Private Investigative, Private Security, and Recovery Services Licenses		**170,041**
W	Concealed Weapon or Firearm	2,445,471
WJ	Concealed Weapon or Firearm/Circuit and County Judges	809
WR	Concealed Weapon or Firearm/Retired Law Enforcement and Correctional Officers	13,244
WS	Concealed Weapon or Firearm/Consular Security Official	6
Subtotal of Concealed Weapon Licenses		**2,459,530**
Total Number of Licenses		**2,629,571**

Class "D" Security Officers

Section 493.6101, F.S., defines the following:

- "Security officer" means any individual who, for consideration, advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof. The term also includes armored car personnel and those personnel engaged in the transportation of prisoners.[6]
- "Security agency" means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners.

To become an unarmed security officer in Florida, a Class "D" Private Security license is required.[7] "Unarmed" means that no firearm shall be carried while providing security officer services regulated by ch. 493, F.S.[8] In order to carry a firearm in the course of performing such duties, the licensee must also obtain a Class "G" Statewide Firearm license in addition to the Class "D" Private Security license.[9]

To qualify for a Class "D" Private Security license, an applicant must:

- Be at least 18 years old;
- Be one of the following:
  - A United States citizen,
  - A permanent legal resident, or
  - A holder of a work visa from the United States Citizenship and Immigration Service;
- Have no disqualifying criminal history;
- Be of good moral character;
- Have no history of:
  - Mental illness,
  - Alcohol abuse, or
  - Substance abuse;
- Submit an application with certain identifying information;[10] and
- Complete 40 hours of required training and submit proof thereof to DACS.[11]

Currently, the required training must take place in-person at a licensed school or training facility that has a physical location.[12] Many states, including California and Georgia, do not prohibit online training for unarmed security officers.[13]

[6] S. 493.6101(19), F.S.
[7] S. 493.6301(5), F.S. Exceptions to the licensure requirement are listed in s. 493.6102, F.S.
[8] S. 493.6101(9), F.S.
[9] S. 493.6115(2), F.S.
[10] S. 493.6105, F.S. and r. 5N-1.100(6), F.A.C.
[11] S. 493.6303(4)(a), F.S.

According to the National Conference of State Legislatures (NCSL),[14] 11 states do not require a license for unarmed security guards.[15] Of the states that do require a license, 13 do not have any training requirements in order to qualify for a license,[16] and only nine states explicitly require that training be provided in a classroom setting.[17]

Class "G" Statewide Firearm License

In order to carry a firearm in the course of duty, the licensee must also obtain a Class "G" Statewide Firearm license.[18] Only Class "C" Private Investigator, Class "CC" Private Investigator Intern, Class "D" Security Officer, Class "M" Private Investigative/Security Agency Manager, Class "MA" Private Investigative Agency Manager, or Class "MB" Security Manager licensees are permitted to bear a firearm and any such licensee who bears a firearm must also have a Statewide Firearm license.[19]

An applicant for a Class "G" Statewide Firearm license must satisfy minimum training criteria for firearms established by DACS rule,[20] including, but not limited to, 28 hours of range and classroom training taught and administered by a Class "K" Firearms Instructor licensee. No more than eight hours of such training may consist of range training.[21]

Class "DS" Security Officer Schools and Training Facilities

A Class "DS" license is required for schools and training facilities that provide training services for Class "D" Security Officer license applicants. An application for a Class "DS" Security Officer School license must contain the following information:

- The name and address of the school or training facility,
- The street address of the place where training will be conducted, and
- A copy of the curriculum and final exam to be administered,[22] in accordance with the requirements set forth by DACS.[23]

The general content and number of hours of each subject area to be taught in a school or training facility is established by DACS rule.[24] Firearms instructors may use audio/video material as an instructional aide when teaching the classroom portion of the firearms training course, but an instructor cannot rely solely on the use of audio/video material. Firearms instruction must be presented as live, in-person classes where the firearms instructor is present to allow for necessary student teacher interaction when teaching students to use firearms.[25]

Effect of the Bill

Class "G" Statewide Firearm Licenses

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[12] Ss. 493.6303(4)(a) and 493.6304, F.S.; and Department of Agriculture and Consumer Services, *Class "D" Security Officer License Requirements*, https://www.freshfromflorida.com/Business-Services/Private-Security-Licenses/Class-D-Security-Officer-License-Requirements (last visited Jan. 24, 2022).
[13] Cal. Bus. & Prof. § 7583.6 (2017); Ga. Comp. R. & Regs. r. 509-3-.02; and O.C.G.A. § 43-38-7.1(a).
[14] Email from Zach Hermann, MSW, Research Analyst II, Employment, Labor & Retirement Program, National Conference of State Legislatures, NCSL REPLY: classroom vs online education for unarmed security guard licensure, (Mar. 11, 2019).
[15] Colorado, Idaho, Kansas, Kentucky, Massachusetts, Mississippi, Missouri, Nebraska, Rhode Island, South Dakota, and Wyoming.
[16] Indiana, Iowa, Maine, Maryland, Michigan, Montana, Nevada, New Hampshire, Ohio, Pennsylvania, Texas, West Virginia, and Wisconsin.
[17] Alabama, Georgia, Illinois, North Carolina, North Dakota, Oregon, Utah, Vermont, and Virginia.
[18] S. 493.6115(2), F.S.
[19] S. 493.6115(2), F.S.
[20] R. 1.132, F.A.C.
[21] S. 493.6105(5), F.S.
[22] S. 493.6304, F.S.
[23] R. 5N-1.134, F.A.C.
[24] S. 493.6303(4)(a), F.S.
[25] R. 5N-1.132(4)(c), F.A.C.

The bill revises the minimum firearms training criteria for Class “G” Statewide Firearm license applicants to require the 28 hours of range and classroom training be conducted by in-person instruction or online through a secure website of the licensed school or training facility if the applicant's identity, attendance, and successful completion of training are verified. The applicant must report the verification to DACS upon completion of the training.

The bill specifies that no more than 21 hours of such training may be conducted in an online classroom, and no more than eight hours of such training shall consist of range training.

The bill requires DACS, by rule and in accordance with s. 493.6115, F.S., to establish the general content, the number of hours of each subject area to be taught, the method of delivery and the security protocols for online training and testing, the reporting requirements for verification of successful completion of training, and any other rules necessary for the regulation of schools or training facilities providing in-person or online training.

Class “DS” Security Officer Schools and Training Facilities

The bill requires an online training course for a Class "D" Security Officer license or a Class "G" Statewide Firearm license to be attached to and conducted by a licensed school or training facility that maintains a physical location.

The bill requires firearms instructors conducting an online training course to work under a licensed school or training facility or be employed under a business establishment registered, permitted, or licensed by DACS with an insurance policy in the minimum amount of $1,000,000.

The bill specifies that an applicant may only be logged into the online training course from one device at a time.

The bill requires such online training courses to:

- Include security questions to ensure that the applicant is actively using the computer or mobile device and is following along with the online training;
- Set a minimum amount of time that each applicant must spend on each screen before moving on to the next screen; and
- Include randomized test questions.

The bill requires online training course certificates to be sequentially numbered for tracking purposes.

Class “D” Security Officer Licenses

The bill revises the 40 hour training requirement for applicants for a Class “D” Security Officer license to allow the required training to be conducted in-person or online through a secure website of the licensed school or training facility if the applicant's identity, attendance, and successful completion of training are verified.

The bill requires applicants to report the verification to DACS upon completion of the training.

Such training is valid only if DACS receives verification of the applicant’s identity, attendance, and successful completion. DACS is required to establish by rule, and in accordance with s. 493.6103, F.S., the following:

- General content;
- Number of hours of each subject area;
- Method of delivery;
- Security protocols;
- Reporting requirements for verification of successful completion; and
- Any other rules necessary for the regulation of schools or training facilities providing in-person or online training.

The bill provides that upon completion of such training, the training facility or the instructor must:

- Submit proof of completion of training for each applicant to DACS electronically in a manner prescribed by DACS; and
- Provide a copy of the training results to the applicant who completed the training.

B. SECTION DIRECTORY:

Section 1: Amends s. 493.6105, F.S., relating to initial application for license.

Section 2: Creates s. 493.6132, F.S., relating to online training courses.

Section 3: Amends s. 493.6303, F.S., relating to license requirements.

Section 4: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an insignificant negative fiscal impact on DACS that can be absorbed within existing resources for the rulemaking requirements of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Online training may make the profession more accessible based on increased ease in obtaining the required training. Schools and training facilities may also offer training at a lower cost due to reduced costs from running physical facilities.

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 DACS to develop rules in accordance with ss. 493.6115 and 493.6103, F.S., to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 27, 2022, the Regulatory Reform Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute corrects a reference to DBPR to instead reference DACS.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform Subcommittee.

A bill to be entitled

An act relating to online training for private security officers; amending ss. 493.6105 and 493.6303, F.S.; providing that certain required training criteria for a Class "D" or Class "G" license may be conducted online; providing requirements for such online training; requiring the Department of Agriculture and Consumer Services to establish certain criteria and rules for the regulation of certain entities that provide online training; providing reporting requirements upon completion of the training; creating s. 493.6132, F.S.; providing requirements for online training courses for a Class "D" or Class "G" license; providing an effective date.

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

Section 1. Subsection (5) of section 493.6105, Florida Statutes, is amended to read:

493.6105 Initial application for license.—

(5) In addition to the requirements outlined in subsection (3), an applicant for a Class "G" license must satisfy minimum training criteria for firearms established by rule of the department, which training criteria includes, but is not limited to, 28 hours of range and classroom training conducted by in-

person instruction or online through a secure website of the licensed school or training facility if the applicant's identity, attendance, and successful completion of training are verified. The applicant must report the verification to the department upon completion of the training. Training is to be taught and administered by a Class "K" licensee; however, no more than 21 hours may be conducted in an online classroom, and no more than 8 hours of such training shall consist of range training. The department shall by rule and in accordance with s. 493.6115 establish the general content, the number of hours of each subject area to be taught, the method of delivery and the security protocols for online training and testing, the reporting requirements for verification of successful completion of training, and any other rules necessary for the regulation of schools or training facilities providing in-person or online training. The department may waive the foregoing firearms training requirement if:

(a) The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission or has successfully completed the training required for certification within the last 12 months.

(b) The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has

received law enforcement firearms training administered by a federal law enforcement agency.

(c) The applicant submits a valid firearm certificate among those specified in paragraph (6)(a).

Section 2. Section 493.6132, Florida Statutes, is created to read:

493.6132 Online training courses.—

(1) An online training course for a Class "D" or Class "G" license must be attached to and conducted by a licensed school or training facility that maintains a physical location.

(2) A firearms instructor conducting an online training course must work under a licensed school or training facility or be employed under a business establishment registered, permitted, or licensed by the department with an insurance policy in the minimum amount of $1,000,000.

(3) An applicant may only be logged into the online training course from one device at a time.

(4) The online training course must:

(a) Include security questions to ensure that the applicant is actively using the computer or mobile device and is following along with the online training.

(b) Set a minimum amount of time that each applicant must spend on each screen before moving on to the next screen.

(c) Include randomized test questions.

(5) Online training course certificates must be

sequentially numbered for tracking purposes.

Section 3. Paragraph (a) of subsection (4) of section 493.6303, Florida Statutes, is amended to read:

493.6303 License requirements.—In addition to the license requirements set forth elsewhere in this chapter, each individual or agency must comply with the following additional requirements:

(4)(a) An applicant for a Class "D" license must submit proof of successful completion of a minimum of 40 hours of professional training at a school or training facility licensed by the department. The training may be conducted by in-person instruction or online through a secure website of the licensed school or training facility if the applicant's identity, attendance, and successful completion of training are verified. The applicant must report the verification to the department upon completion of the training. The department shall by rule and in accordance with s. 493.6103 establish the general content and number of hours of each subject area to be taught, the method of delivery and the security protocols for online training and testing, the reporting requirements for verification of successful completion of training, and any other rules necessary for the regulation of schools or training facilities providing in-person or online training. Upon completion of such training, the training facility or the instructor must submit proof of completion of training for each

applicant to the department electronically in a manner prescribed by the department. The training facility or the instructor must also provide a copy of the training results to the applicant who completed the training.

Section 4. This act shall take effect July 1, 2022.

COMMERCE COMMITTEE

HB 1233 by Rep. Fine
Online Training for Private Security Officers

AMENDMENT SUMMARY
February 17, 2022

Amendment 1 by Rep. Fine (strike-all):

- Specifies that the 8 hours of in-person training for firearms includes **safe handling and storage of firearms**.
- Allows the 28 hours of range and classroom training for Class "G" statewide firearm licensure applicants to be **taught by a Class "K" firearm instructor via secure website** instead of a licensed school or training facility.
- Specifies that the online portion of such training must be **live instruction**.
- Reduces the 21 hour limit for the online classroom portion of the training to **20 hours**.
- **Implements similar reporting requirements for Class "G" and Class "D" applicants** who complete their training online, specifically requiring both the applicant and Class "K" firearms instructor to submit training results to DACS, and requiring the instructor to provide a hard copy of the certificate to the applicant.
- Removes the requirement that a Class "K" firearm instructor licensee conducting online training to have **insurance**.
- Requires an online training course to include a **digital record** of the applicant's attendance log along with components required by DACS rule.
- Requires a licensed school or training facility or Class "K" firearm instructor licensee conducting an online course to:
    - **Maintain records** of all training sessions, including the instructor who taught each session, compliance with security protocols, and any other required documentation established by DACS rule.
    - **Provide live access** to the Division for auditing, monitoring or inspection purposes.
    - **Allow instructing via recording where an applicant is absent** during a portion of the live online class, as limited by DACS rule; and
- **Allows DACS to access** each online course for the purpose of auditing, monitoring, and inspection.

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: Commerce Committee
Representative Fine offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (5) of section 493.6105, Florida Statutes, is amended to read:

493.6105 Initial application for license.—

(5) In addition to the requirements outlined in subsection (3), an applicant for a Class "G" license must satisfy minimum training criteria for firearms established by rule of the department, including ~~which training criteria includes~~, but ~~is~~ not limited to, 28 hours of range and classroom training conducted by in-person instruction or live online instruction through a secure website, provided that the applicant's identity, attendance, and successful completion of training are

verified by the instructor. As part of his or her application, the applicant must submit a training certificate to the department upon completion of the training. Training must be taught and administered by one or more ~~a~~ Class "K" licensees. ~~licensee; however,~~ No more than 20 hours of such training may be conducted in an online classroom, and 8 hours of such training shall consist of in-person range training~~.~~ including safe handling and storage of firearms. Consistent with s. 493.6115, the department shall by rule establish the general content and the number of hours of each subject area to be taught, the method of delivery and the security protocols for online training and testing, the reporting requirements for verification of successful completion of training, and any other rules necessary for the regulation of Class "K" licensees providing in-person or online training. Upon completion of the training, the instructor must submit results directly to the Division of Licensing in a manner prescribed by the department. The instructor must also provide a copy of the training results to the applicant who completed the training. The department may waive the foregoing firearms training requirement if:

(a) The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission or has successfully completed the training required for certification within the last 12

months.

(b) The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency.

(c) The applicant submits a valid firearm certificate listed ~~among those specified~~ in paragraph (6)(a).

Section 2. Section 493.6132, Florida Statutes, is created to read:

493.6132 Online training courses.—

(1) An online training course for a Class "D" license must be conducted live and by a licensed school or training facility that maintains a physical location in this state.

(2) A Class "K" licensed firearms instructor conducting an online training course must maintain a physical location in this state and must conduct online classes live at a location in this state.

(3) An applicant may only be logged into the online training course from one device at a time.

(4) The online training course must include, at a minimum, all of the following:

(a) Security questions to ensure that the applicant is actively using the computer or mobile device and is following along with the online training.

(b) A minimum amount of time that each applicant must

spend on each screen before moving on to the next screen.

(c) Randomized test questions.

(d) A digital record of the applicant's attendance log along with any components required by department rule.

(5) A licensed school or training facility, or a Class "K" licensee conducting an online course, must maintain records of all training sessions, including the name and license number of the instructor who is present online with the students while the students are receiving instruction, and proof of compliance with all security protocols at the school, facility, or place of business in this state. The records required under this subsection must be made accessible to the department's investigators upon request.

(6) A licensed school or training facility, or a Class "K" licensee conducting an online course must provide the Division of Licensing with live access to each course for the purposes of auditing, monitoring, or inspection as deemed necessary by the division.

(7) If an applicant is absent during a portion of a live online class, a licensed school or training facility, or a Class "K" licensee conducting an online course, may deliver instruction in part using recordings, as limited by department rule.

Section 3. Paragraph (a) of subsection (4) of section 493.6303, Florida Statutes, is amended to read:

493.6303 License requirements.—In addition to the license requirements set forth elsewhere in this chapter, each individual or agency must comply with the following additional requirements:

(4)(a) An applicant for a Class "D" license must submit proof of successful completion of a minimum of 40 hours of professional training at a school or training facility licensed by the department. The training may be conducted by in-person instruction or online instruction presented live through a secure website of the licensed school or training facility, provided that the applicant's identity, attendance, and successful completion of training are verified by the instructor. As part of his or her application, the applicant must submit the completed training certificate to the department upon completion of the training. The department shall by rule and in accordance with s. 493.6103 establish the general content and number of hours of each subject area to be taught, the method of delivery and the security protocols for online training and testing, the reporting requirements for verification of successful completion of training, and any other rules necessary for the regulation of schools or training facilities providing in-person or online training. Upon completion of such training, the training facility or the instructor must submit proof of completion of training for each applicant to the department electronically in a manner

prescribed by the department. The training facility or the instructor must also provide a copy of the training results to the applicant who completed the training.

Section 4. This act shall take effect July 1, 2022.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to online training for private security officers; amending ss. 493.6105 and 493.6303, F.S.; providing that certain required training criteria for Class "G" and Class "D" licenses, respectively, may be conducted online; providing requirements for such online training; requiring the Department of Agriculture and Consumer Services to establish certain criteria and rules for the regulation of certain entities that provide online training; providing reporting requirements upon completion of the training; creating s. 493.6132, F.S.; providing requirements for online training courses for a Class "D" license; requiring entities offering online training to provide the Division of Licensing with live access to each course; authorizing such entities to deliver online instruction using

recordings under certain circumstances; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1411 Floating Solar Facilities
SPONSOR(S): Local Administration & Veterans Affairs Subcommittee, Avila
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1338

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	15 Y, 0 N	Walsh	Keating
2) Local Administration & Veterans Affairs Subcommittee	16 Y, 0 N, As CS	Leshko	Miller
3) Commerce Committee		Walsh	Hamon

SUMMARY ANALYSIS

Florida law declares that it is the intent of the Legislature to promote the development of renewable energy. Current law states that solar energy is one of the fuel or energy sources, from which energy can be produced, that qualifies as "renewable energy."

The Community Planning Act (act) directs the manner in which local governments create and adopt their local comprehensive plans. Current law requires solar facilities to be a permitted use in all agricultural land use categories in a local government's comprehensive plan and all agricultural zoning districts within an unincorporated area.

Floating solar, also known as floatovoltaics, is a relatively new concept that refers to any type of solar array that floats atop a body of water. Floating solar panels are affixed to a buoyant structure that keeps them above the surface of the water. In recent years, different entities around Florida have deployed floating solar facilities.

The bill promotes the use of floating solar facilities by requiring each local government to allow these facilities as a permitted use under certain conditions and amend its land development regulations to promote the use of floating solar. Under the bill, counties and municipalities may adopt ordinances specifying buffer and landscaping requirements for floating solar facilities, however, such requirements may not exceed the requirements for similar uses involving the construction of other solar facilities that are permitted uses in agricultural land use categories and zoning districts

The bill states that a floating solar facility may not be constructed in an Everglades Agricultural Area reservoir project if the local governments involved with the project determine that the facility will have a negative impact on that project.

Under the bill, the Office of Energy within the Department of Agriculture and Consumer Services is tasked with submitting recommendations to the Legislature to provide a regulatory framework to private and public sector entities that implement floating solar facilities.

The bill does not effect state or local government revenues or state government expenditures. The bill may have an insignificant fiscal impact on local government expenditures.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Renewable Energy

Florida law declares that it is the intent of the Legislature to:

- Promote the development of renewable energy;
- Protect the economic viability of Florida's existing renewable energy facilities;
- Diversify the types of fuel used to generate electricity in Florida;
- Lessen Florida's dependence on natural gas and fuel oil for the production of electricity;
- Minimize the volatility of fuel costs;
- Encourage investment within the state;
- Improve environmental conditions; and
- Minimize the costs of power supply to electric utilities and their customers.[1]

Current law defines "renewable energy" as electrical energy produced from a method that uses one or more of the following fuels or energy sources:

- Hydrogen produced from sources other than fossil fuels;
- Biomass;
- Solar energy;
- Geothermal energy;
- Wind Energy;
- Ocean energy; and
- Hydroelectric power.[2]

Solar Facilities

Florida law defines the term "solar facility" as a production facility for electric power which:

- Uses photovoltaic modules to convert solar energy to electricity that may be stored on site, delivered to a transmission system, and consumed primarily offsite;
- Consists principally of photovoltaic modules, a mounting or racking system, power inverters, transformers, collection systems, battery systems, fire suppression equipment, and associated components; and
- May include accessory administration or maintenance buildings, electric transmission lines, substations, energy storage equipment, and related accessory uses and structures.[3]

A utility-scale solar generation system requires larger quantities of land per unit of power produced than traditional power plants.[4] Solar generation facilities require "at least [ten] times as much land per unit of power produced than coal or natural gas-fired power plants."[5] As a result of the large scale nature of such projects, siting solar facilities can be challenging and viewed as unpopular by those who do not want these large projects near their homes.[6]

Local Land Development and Comprehensive Plans

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[1] S. 366.92, F.S. *See also* S. 377.601(2)(i), F.S.
[2] S. 366.91, F.S.
[3] S. 163.3205(2), F.S.
[4] Samantha Gross, *Renewables, land use, and local opposition in the United States*, https://www.brookings.edu/research/renewables-land-use-and-local-opposition-in-the-united-states/ (last visited Feb. 15, 2022).
[5] *Id.*
[6] *Id.*

The Community Planning Act (act) directs the manner in which local governments create and adopt their local comprehensive plans.[7] Comprehensive plans prescribe certain principles, guidelines, standards, and strategies to allow for orderly and balanced future land development.[8] Current law outlines the required and optional elements of a comprehensive plan and includes provisions which govern agricultural lands and practices.[9]

Current law requires solar facilities to be a permitted use in all agricultural land use categories in a local government's comprehensive plan and all agricultural zoning districts within an unincorporated area.[10] Solar facilities must comply with setback and landscaped buffer area criteria for similar uses in the agricultural district and allows a county to adopt ordinances specifying buffer and landscaping requirements for facilities.[11] Such requirements may not exceed those for similar uses involving construction of other facilities permitted in agricultural land use categories and zoning districts.[12]

Floating Solar Facilities

Floating solar, also known as floatovoltaics, is a relatively new concept that refers to any type of solar array that floats atop a body of water. Floating solar panels are affixed to a buoyant structure that keeps them above the surface of the water. Lakes, basins, and manmade bodies of water, such as reservoirs, are ideal for floating solar, because the waters are generally calm compared to the ocean. Since the technology was first patented in 2008, floating solar has predominately been installed in countries such as Japan, China, and the U.K.[13]

In recent years, floating solar panels have made a splash in Florida waters. For example, the Altamonte Electric Authority, which serves Altamonte Springs, Florida, unveiled a floating solar array that generates one megawatt of electricity, making it the largest in Florida and the third largest in the United States.[14] Florida Power and Light Company partnered with Miami-Dade County to launch a 402-panel floating solar installation near Miami International Airport.[15] Orlando International Airport recently unveiled its first floating solar array, which is a collection of 360 solar panels that can power about 14 homes.[16]

The Everglades Agricultural Area

The South Florida Water Management District and the U.S. Army Corps of Engineers are working on the Everglades Agricultural Area Reservoir Project. The project aims to construct a treatment wetland that will clean water and a reservoir that will store excess water from Lake Okeechobee.[17]

The Office of Energy

The Legislature created the Office of Energy within the Department of Agriculture and Consumer

[7] S. 163.3167(2), F.S.
[8] S. 163.3177, F.S.
[9] Ss. 163.3177 and 163.3162, F.S.
[10] S. 163.3205(3), F.S.
[11] S. 163.3205(3) and (4), F.S.
[12] S. 163.3205(4), F.S.
[13] *Floating solar: what you need to know*, EnergySage, https://news.energysage.com/floating-solar-what-you-need-to-know/ (last visited Feb. 15, 2022).
[14] Altamonte Electric Utility, *The City of Altamonte Springs Invests In Renewable Energy to Power the Future*, p. 1, available at http://www.altamonte.org/DocumentCenter/View/8800/AEU-Solar-Array-Info-Sheet (last visited Feb. 15, 2022).
[15] Victoria Lewis, *FPL launches nation's first floating solar array at Miami International Airport*, WPTV (Jan. 29, 2020), https://www.wptv.com/news/state/fpl-launches-nations-first-floating-solar-array-at-miami-international-airport (last visited Feb. 15, 2022).
[16] Jessica Albert, *Orlando International Airport unveils its 1st floating solar array*, Fox 35 Orlando (Dec. 10, 2020), https://www.fox35orlando.com/news/mco-debuts-floating-solar-array (last visited Feb. 15, 2022).
[17] *Progress Continues on the Everglades Agricultural Area Reservoir Project*, South Florida Water Management District, https://www.sfwmd.gov/our-work/cerp-project-planning/eaa-reservoir (last visited Feb. 15, 2022).

Services to act as the energy policy and program development office for the State of Florida. The Office of Energy evaluates energy-related studies, analyses and stakeholder input to recommend energy policies and programs that will move Florida toward a more diverse, stable, and reliable energy portfolio.[18]

Effect of Proposed Changes

The bill promotes the use of floating solar facilities by requiring each local government to allow these facilities as a permitted use under certain conditions and amend its land development regulations to promote the use of floating solar.

The bill provides legislative findings that:

- Floating solar facilities can be effective tools in harnessing energy in manmade bodies of water;
- Siting floating solar facilities on wastewater treatment ponds, abandoned limerock mine areas, and other water storage reservoirs is a beneficial use of those areas for many reasons; and
- Siting floating solar facilities should be encouraged by local governments as appropriate uses of water and land areas.

The bill defines "floating solar facility" as a solar facility, as defined in s. 163.3205(2), F.S., which is located on wastewater treatment ponds, abandoned limerock mine areas, or other manmade water storage reservoirs.

Under the bill, each local government must allow floating solar facilities as a permitted use in the appropriate land use categories in its comprehensive plan. Each local government must amend its land development regulations to promote the expanded use of floating solar facilities.

The bill allows counties and municipalities to adopt ordinances specifying buffer and landscaping requirements for floating solar facilities, however, such requirements may not exceed the requirements for similar uses involving the construction of other solar facilities that are permitted uses in agricultural land use categories and zoning districts.

Under the bill, a floating solar facility may not be constructed in an Everglades Agricultural Area reservoir project if the local governments involved with the project determine that the facility will have a negative impact on that project.

The bill tasks the Office of Energy within the Department of Agriculture and Consumer Services with submitting recommendations to the Legislature by December 31, 2022, to provide a regulatory framework to private and public sector entities that implement floating solar facilities.

[18] *Office of Energy*, Florida Department of Agriculture and Consumer Services, https://www.fdacs.gov/Divisions-Offices/Energy (last visited Feb. 15, 2022).

B. SECTION DIRECTORY:

Section 1: Creates s. 163.32051, F.S., relating to floating solar facilities.

Section 2: Provides an effective date of July 1, 2022.

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:

   The bill may have an insignificant impact on local government expenditures due to the requirement for local governments to amend their land development regulations.

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 bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 7, 2022, the Local Administration & Veterans Affairs Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment allows for a municipality to adopt

an ordinance regarding buffer and landscaping requirements for floating solar facilities. The amendment removes the Lake Belt Area as an area where these facilities cannot be constructed if the local government determines it will have a negative impact. Additionally, the amendment limits the local government input regarding construction in an Everglades Agricultural Area reservoir project to those governments involved in the project and specifies they must find that there will be a negative impact on the project, as opposed to just the area.

This analysis is drafted to the committee substitute as passed by the Local Administration & Veterans Affairs Subcommittee.

A bill to be entitled

An act relating to floating solar facilities; creating s. 163.32051, F.S.; providing legislative findings regarding floating solar facilities; defining the term "floating solar facility"; requiring a floating solar facility to be a permitted use in certain land use categories; requiring local governments to promote expanded uses of floating solar facilities by taking specified actions; authorizing a county or municipality to specify buffer and landscaping requirements; providing exceptions to the construction of floating solar facilities; requiring the Office of Energy within the Department of Agriculture and Consumer Services to submit specified recommendations to the Legislature regarding floating solar facilities for certain entities; providing an effective date.

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

Section 1. Section 163.32051, Florida Statutes, is created to read:

163.32051 Floating solar facilities.—

(1)(a) The Legislature finds that floating solar facilities, also known as "floatavoltaics," can be effective tools in harnessing energy in manmade bodies of water.

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

(b) The Legislature finds that siting floating solar facilities on wastewater treatment ponds, abandoned limerock mine areas, and other water storage reservoirs are beneficial uses of those areas for many reasons, including the fact that the water has a cooling effect on the solar panels which can boost power production and the panels help decrease the amount of water lost to evaporation and the formation of harmful algal blooms.

(c) Therefore, the Legislature finds that the siting of floating solar facilities should be encouraged by local governments as appropriate uses of water and land areas.

(2) For purposes of this section, the term "floating solar facility" means a solar facility as defined in s. 163.3205(2) which is located on wastewater treatment ponds, abandoned limerock mine areas, or other manmade water storage reservoirs.

(3) A floating solar facility shall be a permitted use in the appropriate land use categories in each local government comprehensive plan and each local government must amend its land development regulations to promote the expanded use of floating solar facilities.

(4) A county or municipality may adopt an ordinance specifying buffer and landscaping requirements for floating solar facilities. The requirements may not exceed the requirements for similar uses involving the construction of other solar facilities that are permitted uses in agricultural

land use categories and zoning districts.

(5) Notwithstanding subsections (3) and (4), a floating solar facility may not be constructed in an Everglades Agricultural Area reservoir project if the local governments involved with the project determine that the floating solar facility will have a negative impact on that project.

(6) The Office of Energy within the Department of Agriculture and Consumer Services shall develop and submit recommendations to the Legislature by December 31, 2022, to provide a regulatory framework to private and public sector entities that implement floating solar facilities.

Section 2. This act shall take effect July 1, 2022.

COMMERCE COMMITTEE

HB 1411 by Rep. Avila
Floating Solar Facilities

AMENDMENT SUMMARY
February 17, 2022

Amendment 1 by Rep. Avila (Lines 23-40):

- Clarifies that a “floating solar facility” includes a solar facility located on a stormwater treatment pond or a reclaimed water pond and conforms the legislative findings to reflect this change.

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: Commerce Committee
Representative Avila offered the following:

Amendment

Remove lines 23-40 and insert:

(1)(a) The Legislature finds that floating solar facilities, also known as "floatavoltaics," can be effective tools in harnessing energy in bodies of water that have been permitted for storage.

(b) The Legislature finds that siting floating solar facilities on wastewater treatment ponds, abandoned limerock mine areas, stormwater treatment ponds, reclaimed water ponds, and other water storage reservoirs are beneficial uses of those areas for many reasons, including the fact that the water has a cooling effect on the solar panels which can boost power production and the panels help decrease the amount of water lost

to evaporation and the formation of harmful algal blooms.

(c) Therefore, the Legislature finds that the siting of floating solar facilities should be encouraged by local governments as appropriate uses of water and land areas.

(2) For purposes of this section, the term "floating solar facility" means a solar facility as defined in s. 163.3205(2) which is located on wastewater treatment ponds, abandoned limerock mine areas, stormwater treatment ponds, reclaimed water ponds, or other water storage reservoirs.

HB 1469

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1469 Transportation Facility Designations
SPONSOR(S): Grieco
TIED BILLS: **IDEN./SIM. BILLS:** SB 1682

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	15 Y, 0 N	Walsh	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	12 Y, 0 N	Davis	Davis
3) Commerce Committee		Walsh	Hamon

SUMMARY ANALYSIS

Under current law, the Legislature may designate a transportation facility, such as a bridge, interchange, or portion of a road, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not change the official names of the facilities. The Department of Transportation (DOT) erects markers for each designation, but may not do so until the appropriate city or county commission passes a resolution in support of the designation.

The bill honors the 98 people who died in the Champlain Towers South collapse in Surfside, Florida, by designating “98 Points of Light Road” in Miami-Dade County.

The bill will have an insignificant negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the designation. The cost can be absorbed within DOT’s existing resources.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Transportation Facility Designations

Under current law, the Legislature may designate a transportation facility, such as a bridge, interchange, or portion of a road, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not change the official names of the designated facilities, and do not require local governments or private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings to account for the designations.[1]

Current law sets standards for the naming of state buildings and other facilities. The law provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.[2]

Road Markers

The Department of Transportation (DOT) must place a marker at each terminus or intersection of a designated road, bridge, or other transportation facility and erect other markers it deems appropriate for the facility.[3] Road markers may not be erected until the appropriate city or county commission passes a resolution in support of a particular designation. Additionally, if a designated facility extends through multiple cities or counties, a resolution must be passed by each affected local government before the road markers can be erected by DOT.[4]

Champlain Towers South

In the early morning hours of June 24, 2021, a portion of Champlain Towers South collapsed. The condominium building located in Surfside, Florida, had 136 units, of which 55 were destroyed during the collapse. At the time, many of the building's units were occupied by residents who were asleep in their beds.[5] After the collapse, rescue crews spent 29 days searching for victims in the rubble.[6] The final victim was identified on July 26, 2021, which brought the death toll to 98.[7,8]

Effect of the Bill

That portion of S.R. A1A/Collins Avenue between 87th Terrace and 88th Street in Miami-Dade County is designated as "98 Points of Light Road." The bill requires DOT to erect suitable markers.

B. SECTION DIRECTORY:

Section 1: Designates "98 Points of Light Road."

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[1] S. 334.071(1), F.S.
[2] S. 267.062(1), F.S.
[3] S. 334.071(2), F.S.
[4] S. 334.071(3), F.S.
[5] Gina Harkins, *What you need to know about the Florida condo collapse as the search for survivors continues and probe begins*, The Washington Post (July 10, 2021), https://www.washingtonpost.com/nation/2021/06/25/florida-condo-collapse-what-you-should-know/ (last visited Feb. 15, 2022).
[6] Xander Landen, *Surfside Rescue Crews Saluted as Mission Ends 29 Days After Condo Collapse*, Newsweek (Jul. 23, 2021), https://www.newsweek.com/surfside-rescue-crews-saluted-mission-ends-29-days-after-condo-collapse-1612697 (last visited Feb. 15, 2022).
[7] *Remembering those who died in the Champlain Towers condo collapse in Surfside, Florida*, The Palm Beach Post (Aug. 11, 2021), https://www.palmbeachpost.com/in-depth/news/2021/06/28/surfside-miami-florida-building-collapse-victims-who-died-obituaries/5365626001/ (last visited Feb. 15, 2022).
[8] *See also* Connie Ogle, *Remembering the victims of the Surfside tower collapse*, Miami Herald (Dec. 20, 2021), https://www.miamiherald.com/news/local/community/miami-dade/miami-beach/article253088463.html (last visited Feb. 15, 2022) (provides information about the people who died in the Champlain Towers South collapse).

Section 2: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DOT estimates a cost of $1,040 for the appropriate markers, which provides for two signs per designation at $520 per sign.[9] Therefore, the bill has an estimated negative fiscal impact of $1,040 to the State Transportation Trust Fund. This cost can be absorbed within existing DOT resources.

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 affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

[9] Email from Amanda Marsh, Legislative Analyst, Florida Department of Transportation, FDOT Memorial Roadway Designation Sign Estimate, (Sep. 15, 2021).

A bill to be entitled

An act relating to transportation facility designations; providing an honorary designation of a certain transportation facility in a specified county; directing the Department of Transportation to erect suitable markers; providing an effective date.

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

Section 1. 98 Points of Light Road designated; Department of Transportation to erect suitable markers.—

(1) That portion of S.R. A1A/Collins Avenue between 87th Terrace and 88th Street in Miami-Dade County is designated as "98 Points of Light Road."

(2) The Department of Transportation is directed to erect suitable markers designating 98 Points of Light Road as described in subsection (1).

Section 2. This act shall take effect July 1, 2022.

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

HM 1531

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1531 Free Trade Agreement Between the United States and the United Kingdom
SPONSOR(S): Barnaby
TIED BILLS: **IDEN./SIM. BILLS:** CS/SM 174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	14 Y, 0 N	Neuffer	Keating
2) Commerce Committee		Neuffer	Hamon

SUMMARY ANALYSIS

The United Kingdom (UK) officially left the European Union (EU) Single Market and Customs Union on January 31, 2020.

Effective on its official departure from the EU, any EU trade agreements, including trade agreements with the United States (US), no longer applied to the UK. Three separate trade agreements were reached between the UK and EU prior to the UK's official exit from the EU.

As the sixth-largest economy in the world and a major financial center, the UK maintains a vital role in assuring economic stability across the globe. On December 31, 2020, the US and UK entered into the US-UK Trade and Investment Working Group to ensure no disruption to trade for specific products resulted from Brexit. Since its decision to leave the EU, the UK has conducted negotiations with the US in an effort to form new, broader free trade agreements, but negotiations have not been completed.

The US-UK bilateral investment relationship is the largest in the world. In 2019, the US foreign direct investment (FDI) in the UK was $851.4 billion, and the UK FDI in the US was $505.1 billion. More than 1.27 million Americans are employed by UK-owned firms based in the US. In 2019, US exports of goods and services to the UK was worth $147.4 billion, and imports of goods and services from the UK was worth $125.6 billion. In 2018, 67,800 citizens of Florida were employed by UK subsidiaries. The UK ranked as the third largest export market for Florida, with a total value of goods and services exports in 2019 of $5.4 billion.

The memorial urges the Congress of the United States to reenact Trade Promotion Authority laws to guide the executive branch in pursuing trade agreements. Additionally, it urges the executive branch to complete a timely and successful free trade negotiation with the UK for Congress to ratify.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial does not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Current Trade Situation

On June 23, 2016, the United Kingdom (UK) held a referendum on the issue of whether to leave the European Union (EU), which received support from 51.89% of the voters.[1] This referendum would later become known as Brexit.[2] The UK officially left the EU Single Market and Customs Union on January 31, 2020.[3]

Effective on its official departure from the EU, any EU trade agreements, including trade agreements with the US, no longer applied to the UK. Three separate trade agreements were reached between the UK and EU prior to the UK's official exit from the EU.

As the sixth-largest economy in the world and a major financial center, the UK maintains a vital role in assuring economic stability across the globe. The instability caused by Brexit meant the UK sought to reinforce its close ties with the United States (US).[4] On December 31, 2020, the US and UK entered into the US-UK Trade and Investment Working Group to ensure Brexit did not disturb the trade of specific products.[5] Since its decision to leave the EU, the UK has conducted negotiations with the US in an effort to form new, broader, free trade agreements. As the US and UK entered trade agreement negotiations, Congress expressed its awareness of the implications the UK's withdrawal from the EU will mean for the global economy, trade relations, and other political and security issues.[6] That recognized, the US has expressed grave concern over the impact the 2020 Brexit treaty could have on the Belfast Agreement, commonly known as the Good Friday Agreement.

The Belfast Agreement was signed on April 10, 1998. It led to the establishment of a system of government in Northern Ireland and related institutions.[7] The agreement created a political framework for Northern Ireland centered on power-sharing between competing groups.[8] Of importance was the confirmation that Northern Ireland was part of the UK, but a stipulation set forth that Ireland could be united only if supported by a vote in both Northern Ireland and the Republic of Ireland.[9] When the UK voted to leave the EU, the border between Northern Ireland and the Republic of Ireland caused concern. Since the Belfast Agreement, the border between these two countries, which was once heavily militarized, has become almost invisible. Following Brexit, an agreement was reached between

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[1] *See* Government of the Netherlands, *Questions and Answers on Brexit*, https://www.government.nl/topics/brexit/question-and-answer/what-is-brexit (last visited January 28, 2022).
[2] See *Id.* (explaining the term is a combination of 'Britain' and 'exit').
[3] *See* Alasdair Sanford, *Post-Brexit Guide: Where Are We Now – And How Did We Get Here?*, Euronews (January 17, 2022), https://www.euronews.com/2021/06/23/brexit-draft-deal-first-of-many-hurdles-to-a-smooth-exit (last visited January 28, 2022).
[4] Congressional Research Service, *The United Kingdom: Background, Brexit, and Relations with the United States* (updated April 1, 2021).
[5] *See* Office of the United States Trade Representative, *U.S.-UK Trade Agreement Negotiations*, https://ustr.gov/countries-regions/europe-middle-east/europe/united-kingdom/us-uk-trade-agreement-negotiations (last visited January 28, 2022).
[6] *Id.*
[7] *See* Citizens Information, *The Good Friday Agreement*, March 31, 2021, https://www.citizensinformation.ie/en/government_in_ireland/ireland_and_the_uk/good_friday_agreement.html (last visited January 25, 2022).
[8] *See* Charles Landow and James McBride, *Moving Past the Troubles: The Future of Northern Ireland Peace*, Council on Foreign Relations, April 23, 2021, https://www.cfr.org/backgrounder/moving-past-troubles-future-northern-ireland-peace (last visited January 25, 2022).
[9] *Id.*

the EU and UK to avoid the reappearance of a hard border.[10] Stipulated in the agreement, there would be no new check on goods crossing the border between Northern Ireland and the Republic of Ireland.[11]

The current US administration has made clear that a trade deal with the UK will only be considered if Brexit does not undermine the Belfast Agreement.[12] Additional sticking points of the trade agreement negotiations include the tariffs on steel and aluminum imposed during the previous US administration, as well as the UK's regulations on chicken washed in chlorine.[13]

US Trade Relations with the UK

The US-UK bilateral investment relationship is one of the largest in the world. In 2019, US foreign direct investment (FDI) in the UK was $851.4 billion[14], and UK FDI in the US was $505.1 billion.[15] More than 1.27 million Americans are employed by UK-owned firms based in the US.[16] In 2019, US exports of goods and services to the UK was worth $147.4 billion[17], and imports of goods and services from the UK was worth $125.6 billion.[18]

In 2018, 67,800 citizens of Florida were employed by UK subsidiaries.[19] The UK ranked as the third largest export market for Florida, with a total value of exports of goods and services in 2019 reaching $5.4 billion.[20]

Trade Promotion Authority

The President of the US has the authority to negotiate treaties with foreign countries, but Congress has the sole authority to regulate international trade.[21] Trade Promotion Authority (TPA) is a time-limited authority that Congress may use to establish trade negotiating objectives, notification and consultation requirements, and procedures to consider when implementing legislation for certain reciprocal trade agreements.[22] TPA does not provide new power to the executive branch, but is a legislative procedure written by Congress, though which it defines US negotiating objectives and sets forth a detailed oversight and consultation process to be followed during trade negotiations.[23] TPA acts as a fast-track process made available by Congress to the President for limited periods to enable legislation to approve and implement certain international trade agreements to be considered under expedited

[10] Nidirect, *EU Exit and the Northern Ireland Protocol*, nidirect government services, https://www.nidirect.gov.uk/articles/eu-exit-and-northern-ireland-protocol (last visited January 25, 2020).
[11] *Id.*
[12] Megan Boyanton, *How the Post-Brexit U.S.-U.K. Trade Deal Lost Momentum*, The Washington Post, October 14, 2021, https://www.washingtonpost.com/business/how-thepost-brexit-us-uk-trade-deal-lost-momentum/2021/10/14/8216a67c-2cc5-11ec-b17d-985c186de338_story.html (last visited January 25, 2022).
[13] *Id.*
[14] Office of the United States Trade Representative, *United Kingdom*, United States Government, https://ustr.gov/countries-regions/europe-middle-east/europe/united-kingdom (last visited January 28, 2022).
[15] *Id.*
[16] United States Department of State, *U.S. Relations with United Kingdom*, United States Government (February 6, 2020), https://www.state.gov/u-s-relations-with-united-kingdom/ (last visited January 28, 2022).
[17] Office of the United States Trade Representative, *supra* note 18.
[18] *Id.*
[19] Enterprise Florida, *United Kingdom*, https://www.enterpriseflorida.com/for-international-companies/international-offices/uk/#:~:text=Florida%2DUK%20Bilateral%20Merchandise%20Trade,-Both%20the%20United&text=A%20Vital%20Trade%20Relationship%3A%20The,in%202019%20reaching%20%243.5%20billion (last visited January 28, 2022).
[20] Gov.uk, *UK-Florida Trade and Investment Highlights*, Government Digital Service (updated June 25, 2021), https://www.gov.uk/government/publications/uk-florida-trade-and-investment-highlights/uk-florida-trade-and-investment-highlights (last visited January 28, 2022).
[21] U.S. Const. art. 1, § 8.
[22] Congressional Research Service, *Trade Promotion Authority (TPA)*, December 14, 2020.
[23] Office of the United States Trade Representative, *Trade Promotion Authority*, United States Government, https://ustr.gov/trade-topics/trade-promotion-authority (last visited January 28, 2022).

legislative procedures.[24] Under TPA, Congress retains the authority to review and decide whether any proposed US trade agreement will be implemented.[25]

The most recent TPA was authorized through July 1, 2021, by the Bipartisan Congressional Trade Priories Act of 2015.[26]

Free Trade Agreements

A Free Trade Agreement (FTA) is an agreement between two or more countries where the signed parties agree on certain trade obligations for the purpose of reducing barriers to trade.[27] As a result of reduced barriers, a more stable and transparent trading environment is created for business actors.

The US currently has FTAs with 20 countries, of which the EU and UK are not included.[28] In 2013, the US and EU attempted negotiations for the Transatlantic Trade and Investment Partnership (TTIP) but ended in 2016 without conclusion.[29]

Effect of the Memorial

The memorial urges:

- The Congress of the United States to reenact Trade Promotion Authority laws to guide the executive branch in pursuing trade agreements
- The executive branch to complete a timely and successful free trade negotiation with the UK
- The Congress of the United States to ratify the agreement

Copies of the memorial will be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

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:

[24] Congressional Research Center, *Trade Promotion Authority (TPA): Frequently Asked Questions* (updated June 21, 2019).
[25] *Id.*
[26] *Id.*
[27] International Trade Administration, *Free Trade Agreement Overview*, United States Department of Commerce, https://www.trade.gov/free-trade-agreement-overview (last visited January 28, 2022).
[28] *Id.*
[29] European Commission, *United States* (updated September 6, 2021), https://ec.europa.eu/trade/policy/countries-and-regions/countries/united-states/#:~:text=Despite%20the%20US%20being%20the,at%20the%20end%20of%202016. (last visited January 28, 2022).

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This memorial does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

House Memorial

A memorial to the Congress of the United States and the President of the United States encouraging Congress to reenact Trade Promotion Authority laws to guide the executive branch, urging the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and urging Congress to ratify such agreement.

WHEREAS, the United States is the United Kingdom's largest single-country trade partner with a relationship valued at over $200 billion; both countries are each other's largest foreign direct investors, having approximately $1 trillion invested in each other's economies; and the UK-US Trade and Investment Working Group has laid the groundwork to strengthen trade and investment ties for the present and in the future, including through the use of a free trade agreement, and

WHEREAS, expansion of global trade, especially with the United Kingdom, is of vital importance to the growth of the United States' economy, small business participation in the international marketplace, and job creation, and

WHEREAS, the state would benefit greatly from the ratification of a comprehensive free trade agreement, which, since the United Kingdom is currently the largest foreign direct

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

employer in the state and is the second largest market for tourism, would create employment opportunities for residents of the state as a direct result of removing and reducing barriers to trade and free markets, and

WHEREAS, the successful implementation of a free trade agreement will increase exports to the United Kingdom from the state, and

WHEREAS, the United States Constitution grants the United States Congress exclusive authority to regulate commerce with foreign nations, and

WHEREAS, the negotiation of a successful free trade agreement between the United States and the United Kingdom will require bipartisan cooperation between state, federal, and foreign governments, NOW, THEREFORE,

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

That Congress of the United States is requested to reenact Trade Promotion Authority laws to guide the executive branch in pursuing trade agreements, the executive branch is requested to complete a timely and successful negotiation of a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and the Congress of the United States is further requested to ratify such agreement.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

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