

Insurance & Banking Subcommittee

Wednesday, January 4, 2023
10:00 AM - 11:00 AM
Morris Hall (17 HOB)

Meeting Packet

Paul Renner
Speaker

Wyman Duggan
Chair

The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

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Meeting Agenda

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I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Introduction of Members

V. Subcommittee Overview

VI. Closing Remarks

VII. Adjournment

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



Insurance & Banking Subcommittee

Member Briefing Materials
2022-2024

Paul Renner
Speaker

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INSURANCE & BANKING SUBCOMMITTEE

COMMERCE COMMITTEE

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SUBCOMMITTEE JURISDICTION

The Insurance & Banking Subcommittee considers matters related to insurance companies and agents doing business in life, health, property, casualty (including auto and workers' compensation), and title insurance, among numerous other insurance products; insurance fraud; financial enterprises and individuals, such as, state-chartered banks, state-chartered credit unions, trust companies, mortgage loan originators, mortgage brokers and lenders, securities industry participants, consumer finance companies, money transmitters, foreign currency exchangers, and payday lenders; the state fire marshal; and funeral, cemetery, and consumer services.

DEPARTMENT OF FINANCIAL SERVICES

MISSION
To safeguard the integrity of the transactions entrusted to the Department of Financial Services (DFS) and to ensure that every program within DFS delivers value to the citizens of Florida by continually improving the efficiency and cost effectiveness of internal management processes and regularly validating the value equation with their customers.

PURPOSE
DFS manages the state's accounting and auditing functions; monitors the investment of state funds; investigates financial fraud; licenses and exercises oversight of insurance agents and

agencies; ensures that Florida businesses have workers' compensation coverage; safeguards unclaimed property; helps consumers with financial services issues; and serves as the state fire marshal, investigating arson and promoting fire safety.

PROGRAM DESCRIPTION
DFS is made up of 13 divisions, several specialized offices, and 2,000 employees.

Division of Accounting and Auditing
The Division of Accounting and Auditing carries out the Chief Financial Officer's (CFO) constitutional duty to "settle and approve accounts against the state" by monitoring the expenditure of all appropriated public funds. The division pays all the state's bills, manages state payroll; processes payments for goods and services used by state agencies; promotes financial accountability throughout state government by providing information about its fiscal soundness; and investigates allegations of waste, fraud and abuse of taxpayers' money.

Division of Administration
The Division of Administration provides administrative support to DFS through supervision of the bureaus of Personnel Management, General Services, and Financial & Support Services. The division develops and coordinates all activities related to financial matters, providing: building maintenance and renovation; contract administration; employee awards programs; employee safety and emergency evacuation plans; facilities acquisition; mail services; parking; personnel services; printing services; purchasing services; recycling; security, and telephone reception.

Division of Consumer Services
The Division of Consumer Services helps consumers make informed insurance and financial decisions. Staff assist consumers by answering questions and providing help with any line of insurance. The division's online resources and guides help consumers expand their insurance knowledge. Community education programs are offered throughout the state to provide the public information on various insurance and financial topics.

Division of Funeral, Cemetery, and Consumer Services
The Division of Funeral, Cemetery, and Consumer Services protects death care industry consumers, both in the sales and purchasing of preneed burial rights and the post/peri-mortem sales and purchasing of funeral and burial merchandise or services. It also oversees licensed establishments, facilities, and cemetery grounds by conducting investigations, financial examinations, and inspections.

The Division has established qualifications for professions and occupations in the death care industry. These professions and occupations include, but are not limited to funeral directing, embalming, cremation, preneed sales, cemeteries, and monument sales. Furthermore, the Division ensures death care professionals maintain their qualifications through continuing education courses and licensure renewal. It also oversees licensed establishments, facilities, and cemetery grounds by conducting annual inspections of these entities. Lastly, the Division ensures effective discipline for those licensees who have violated the law. .

Division of Insurance Agents and Agency Services
The Division of Agent & Agency Services helps protect the insurance-buying public by licensing competent and trustworthy individuals and agencies, and by investigating alleged violations of the insurance laws and regulations by licensees or by persons who operate without a license.

Division of Investigative and Forensic Services
The Division of Investigative and Forensic Services encompasses all law enforcement and forensic components residing within the Department of Financial Services. The division investigates a wide range of fraudulent and criminal acts including:

- Insurance Fraud Investigations
- Workers' Compensation Fraud Investigations
- Fire, Arson and Explosives Investigations
- Fire and Explosives Sample Analysis

Division of Public Assistance Fraud
The Division of Public Assistance Fraud investigates allegations of public assistance fraud and enforces federal and state laws related to public assistance. The division investigates schemes to defraud the following programs:

- Temporary Assistance for Needy Families (TANF), which provides cash assistance
- Supplemental Nutritional Assistance Program (SNAP), formerly known as food stamps
- Medicaid
- Disaster Assistance
- School Readiness and Voluntary Pre-Kindergarten
- Social Security Disability

Division of Rehabilitation and Liquidation
DFS serves as the court-appointed Receiver of any financially troubled insurer placed into receivership in Florida. The Division of Rehabilitation and Liquidation plans, coordinates and directs the conservation, rehabilitation, and liquidation of insolvent insurance companies, unlicensed insurance companies, and unlicensed insurance entities and may rehabilitate financially troubled insurance companies.

Division of Risk Management
The Division of Risk Management ensures that participating state agencies and universities receive quality workers' compensation, general liability, federal civil rights, employment discrimination, auto liability, and property insurance coverage at reasonable rates by providing self-insurance, purchase of insurance, claims handling, and technical assistance in managing risk. The division also provides loss prevention services and technical assistance to state agencies and universities for managing risk.

Division of Unclaimed Property
The Division of Unclaimed Property is responsible for administration of the Florida Disposition of Unclaimed Property Act. Currently, the CFO holds unclaimed property accounts valued at $2 billion, mostly from dormant accounts in financial institutions, insurance and utility companies, and securities and trust holdings.

In addition to money and securities, unclaimed property includes tangible property such as watches, jewelry, coins, currency, stamps, historical items and other miscellaneous articles from abandoned safe deposit boxes. Unclaimed money is deposited into the state school fund, where it is used for public education.

There is, no statute of limitations, and citizens have the right to claim their property any time at no cost. If the division has liquidated the property, the owner may recover the value obtained by the division at public auction.

Division of Workers' Compensation

The Division of Workers' Compensation ensures the timely and accurate payment of benefits to injured workers and assists persons who need to find alternative employment due to injury. The division also assists in resolving claims; collects, evaluates, and disseminates data relating to the workers' compensation system; enforces workers' compensation laws; and informs all parties of their rights and responsibilities under Florida's workers' compensation law.

Treasury

The Treasury pays all state warrants (checks), keeps detailed records of all transactions involving the state's money, and produces substantial revenue for the state through short- and intermediate-term investments. The Treasury performs cash management and custodial services for assets of the state and administers the deferred compensation program for state employees.

State Fire Marshal

The State Fire Marshal has the responsibility for minimizing loss of life and property due to fire in Florida. The division conducts fire safety inspections and reviews construction plans related to all state-owned buildings; regulates the fireworks and the fire sprinkler industries; inspects and licenses boilers; and certifies fire suppression industry workers.

The division also approves Florida's firefighter training curricula, provides training to Florida's emergency services providers at the Florida State Fire College and certifies Florida fire service members to ensure they meet industry-based standards.

Office of the Insurance Consumer Advocate

The Insurance Consumer Advocate reports directly to the CFO, but is not under the authority of DFS or any employee of the department. The office represents the interest of the public and has the authority to intervene before the Division of Administrative Hearings (DOAH), DFS, the Office of Insurance Regulation (OIR) and before any forum in matters that arise under the jurisdiction of DFS or OIR.

Activities of the Insurance Consumer Advocate include:

- Representing the public and insurance consumers by recommending specific actions or findings in regulatory matters under consideration by DFS or OIR
- Appearing in proceedings or actions before DFS, OIR, DOAH, or an arbitration panel
- Recommending any position deemed to be in the public interest and insurance consumers;

- Increasing consumer awareness and assisting consumers in matters affecting insurance issues
- Serving as a member of statutory boards, commissions, or ad hoc entities related to Florida's insurance markets
- Performing legal research, seeking public input, and developing proposed legislation that serves the interests of Florida's insurance consumers
- Reviewing and analyzing proposed legislation for purposes of preparing public testimony to support or oppose legislation affecting insurance consumers

FINANCIAL SERVICES COMMISSION

The Financial Services Commission was created by statute and is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. It exists within the Department of Financial Services; however, the Commission is not subject to control, supervision, or direction by the Department of Financial Services in any manner. The commission directs the Office of Financial Regulation (OFR) and the Office of Insurance Regulation (OIR), and appoints a Financial Regulation Commissioner and an Insurance Commissioner to administer the respective offices.

The Financial Services Commission is the agency head of OFR and OIR for purposes of rulemaking and similar actions. However, the Commissioner of Insurance Regulation and Commissioner of Financial Regulation serve as agency directors for OIR and OFR, respectively, for final agency action and for all areas within the regulatory authority delegated to the respective offices.

Office of Financial Regulation

OFR is responsible for the regulation of state-chartered banks, credit unions, money services businesses, mortgage lenders, retail installment sellers, trust companies, finance companies, and the securities industry. The office safeguards the private financial interests of the public by licensing, chartering, examining and regulating financial institutions and financial services companies in Florida. The office protects consumers from financial fraud and preserves the integrity of Florida's markets and financial services industries.

Division of Consumer Finance

The Division of Consumer Finance licenses, examines and regulates non-depository financial services companies and other related industries in Florida. The division has regulatory authority over collection agencies, consumer finance companies, mortgage brokers and mortgage lenders, money services businesses (check cashers, currency exchanges, money transmitters, payday lenders), motor vehicle retail installment sellers, sales finance companies, home improvement finance sellers, and title loan lenders. The division consists of two bureaus, along with a legal support services component.

The Bureau of Registration processes all license and compliance filings for licensees and ensures that only individuals and businesses that meet the standards for licensure are allowed to conduct business in Florida.

The Bureau of Enforcement conducts examinations of licensees which conduct mortgage loan and lending activity, consumer and retail sales, title loans and debt collection.

The division has partnered with the DFS Division of Investigative and Forensic Services, Federal Bureau of Investigation, U.S. Attorney's Office, State Attorneys, and state and local law enforcement agencies to stop fraudulent activities being conducted on Florida's consumers.

Division of Financial Institutions

The Division of Financial Institutions conducts periodic risk-based examinations and ensures that state-chartered financial institutions meet state and federal requirements for safety and soundness. The division is organized into two bureaus.

The Bureau of Bank Regulation conducts examinations and regulates state-chartered commercial banks, and is also responsible for trust companies, trust departments and international bank offices statewide.

The Bureau of Credit Union Regulation conducts examinations of state-chartered credit unions to ensure they operate in a safe and sound manner.

Division of Securities

The Division of Securities administers and enforces compliance with the Florida Securities and Investor Protection Act, which is designed to protect the investing public and promote economic growth. The division consists of two bureaus that regulate the sale of securities in, to, or from Florida.

The Bureau of Registration reviews all applications to conduct business as a securities firm, branch office, or agent; processes amendments and renewals for all entities and individuals regulated by the division; and approves, imposes registration restrictions, or denies registration based on its findings.

The Bureau of Enforcement examines securities dealers and investment advisers, and their respective offices and associated persons, to ensure their compliance with the state law.

Division of Financial Investigations

The Bureau of Financial Investigations is OFR's criminal justice arm. The bureau maintains investigative teams throughout the state who have expertise in financial records and analysis, forensic accounting, interviewing and legal case preparation. The bureau also participates in joint investigations with local, state and federal law enforcement agencies.

Blockchain, Virtual Currency, and Fintech Policy Program

The Virtual Currency and Blockchain Technology Policy Unit is currently being developed. This unit will focus on developing and coordinating the regulatory policies required to provide stability, predictability, and security in Florida's digital marketplace. The unit's goal is to encourage the integration of new and innovative financial technology while providing protections and benefits that will serve consumers and investors.

Office of Inspector General
The Office of Inspector General serves as a central point for activities that promote accountability, integrity, and efficiency within OFR. The office consists of two sections that conduct audits, investigations and other accountability activities relating to the programs and operations of OFR.

The Audit Section provides a systematic and disciplined evaluation of OFR's operations, to improve the effectiveness of risk management, control, and governance processes.

The mission of the Investigation Section is to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses within OFR. This includes investigations pursuant to the Whistle-blower's Act (Sections 112.3187-112.31895, Florida Statutes).

Office of Insurance Regulation

OIR promotes a stable and competitive insurance market for consumers. OIR has primary responsibility for regulation, compliance and enforcement of laws related to the business of insurance and the monitoring of industry markets. Divisions within OIR are organized into areas of regulatory expertise related to life and health insurance and property and casualty insurance.

Deputy Insurance Commissioners
The Deputy Commissioner of Property and Casualty Insurance and the Deputy Commissioner of Life and Health Insurance provide administrative direction and support for the business units within their areas of supervision, which include Product Review, Financial Oversight, and Market Regulation. Deputy commissioners also advise the Insurance Commissioner, and upon request, the Governor, Financial Services Commission, and Legislature on policies and trends affecting insurance markets, companies, and consumers.

Property and Casualty Product Review
The Property and Casualty Product Review unit reviews and acts upon property and casualty insurance policy form and rate filings received from insurance companies and related entities. The unit enforces the provisions of Chapters 626 and 627, Florida Statutes, and applicable rules, as they relate to the review of property and casualty contracts and associated rates. Filings are reviewed to determine compliance with actuarial standards, statutory provisions, and administrative rules. The unit ensures that rates are not inadequate, excessive, or unfairly discriminatory and reviews underwriting rules to ensure compliance with the Florida Insurance Code.

Property and Casualty Financial Oversight
The Property and Casualty Financial Oversight unit monitors the financial condition of all regulated property and casualty entities by conducting financial examinations and ongoing financial analysis. The unit is primarily responsible for enforcing the provisions of Chapters 624 and 625, Florida Statutes, and applicable rules, as they relate to the review of property and casualty insurer solvency. The unit is also responsible for the admissions process for new property and casualty entities as well as those proposing to expand into additional lines of

business. Entities subject to the Property and Casualty unit's regulatory oversight include, but are not limited to property and casualty insurers, title insurers, motor vehicle service agreement companies, home warranty companies, service warranty companies, premium finance companies, legal expense insurance, and self-insurance funds.

Property and Casualty Market Regulation

The Property and Casualty Market Regulation unit conducts examinations and investigations of property and casualty insurers and related parties regarding business practices and patterns of alleged violations of the Florida Insurance Code. The unit also investigates allegations of unauthorized and illegal insurance activity as well as in-depth investigations of authorized insurers. Market Regulation may work with the Legal Services Office to take administrative action, impose administrative penalties, and require corrective action to protect insurance consumers from unlawful or harmful business practices.

Life and Health Product Review

The Life and Health Product Review unit reviews all life and health policy forms and rates for compliance with Florida Statutes, regulations, and actuarial standards. The unit is primarily responsible for enforcing the provisions of 627 and 641, Florida Statutes, Florida Statutes, and applicable rules, as they relate to the review of life and health insurer solvency. The primary function of the unit is to review and act upon policy form and rate filings received from life and health insurance companies, health maintenance organizations, and related entities. The unit is also responsible for the actuarial review of most health insurance rates to determine whether premiums are reasonable in relation to benefits, as required by the Florida Insurance Code, and ensuring that rates are not inadequate, excessive, or unfairly discriminatory.

Life and Health Financial Oversight

The Life and Health Financial Oversight unit monitors the financial condition of all regulated life and health entities through the use of internal financial analysis and on-site examinations. The unit is primarily responsible for enforcing the provisions of Chapters 624 and 625, Florida Statutes, and applicable rules, as they relate to the review of life and health insurer solvency. The unit is also responsible for conducting reviews of all new life and health applicants desiring entrance to the Florida marketplace as well as those proposing to expand into additional lines of business. Entities subject to the Life and Health unit's regulatory oversight include, but are not limited to, life and health insurers, fraternal benefit societies, health maintenance organizations, pre-paid limited health service organizations, pre-paid health clinics, multiple employer welfare arrangements, fiscal intermediary service organizations, and discount medical plan organizations.

Life and Health Market Regulation

The Life and Health Market Regulation unit conducts examinations and investigations of life and health insurers and related parties regarding business practices and patterns of alleged violations of the Florida Insurance Code. The unit also investigates allegations of unauthorized and illegal insurance activity as well as in-depth investigations of authorized insurers. Market Regulation may work with the Legal Services Office to take administrative action, impose administrative penalties, and require corrective action to protect insurance consumers from unlawful or harmful business practices.

Office of the Inspector General
The Office of the Inspector General promotes accountability, integrity, efficiency, and cost-effectiveness in OIR operations and administration through internal audits, investigations, management and performance reviews, and other activities in accordance with professional standards and applicable laws. The Inspector General reports directly to the Insurance Commissioner.

Market Research and Technology
The Market Research and Technology Unit plays a significant role in OIR's ability to leverage technology to streamline processes, broaden efficiencies and incentivize innovation across the agency. The Unit is responsible for data collections, data analysis, market research and reporting, application maintenance and support, and technology innovation and planning.

In addition to these specific areas of responsibility, OIR is supported by the Communications Office, Government Affairs Office, Budget & Personnel Office, and the Legal Services Office.

STATE BOARD OF ADMINISTRATION

The State Board of Administration (SBA) was created by the Florida Constitution as Florida's principal independent Investment Management Organization. The SBA is primarily responsible for investing the proceeds of the Florida Retirement System Pension Plan, administering the Florida Retirement System Investment Plan, managing the Florida Hurricane Catastrophe Fund and running Florida PRIME, as well as investing the proceeds of more than 25 other funds directed to the SBA by the Florida Legislature.

The SBA is governed by a three-member Board of Trustees (Trustees), comprised of the Governor as Chair, the Chief Financial Officer and the Attorney General. In concert with legislative directives, the Trustees have unlimited oversight. They delegate authority to the Executive Director and Chief Investment Officer (CIO) to carry out the strategic direction in the day-to-day financial investments and operations of the SBA. The Executive Director and CIO manage approximately 200 professional investment and administrative support staff.

The SBA is required to invest assets and discharge its duties in accordance with Florida law and in compliance with fiduciary standards of care. Under state law, the SBA and its staff are obliged to:

- Make sound investment management decisions that are solely in the interest of investment clients.
- Make investment decisions from the perspective of subject-matter experts acting under the highest standards of professionalism and care, not merely as well-intentioned persons acting in good faith.

Florida Hurricane Catastrophe Fund

The Florida Hurricane Catastrophe Fund (FHCF) is a tax-exempt state trust fund created in 1993 as a form of reinsurance for residential property insurers. The FHCF operates under the direction

of the SBA. A nine-member advisory council provides the SBA with information and advice regarding the FHCF.

MISSION

The mission of the FHCF is to responsibly and ethically administer the fund by:

- Understanding the catastrophe financing needs of its beneficiaries and stakeholders,
- Striving to satisfy a portion of the hurricane catastrophe financing needs of insurers in order to create additional insurance capacity for the state,
- Protecting the public interest by maintaining insurance capacity in the State,
- Providing exceptional investment, financial, and administrative services.

PURPOSE

The purpose of the FHCF is to protect and advance the state's interest in maintaining insurance capacity in Florida by providing reimbursements to insurers for a portion of their catastrophic hurricane losses.

SUMMARY

Participation in the FHCF is mandatory by each insurer that holds a certificate of authority to write residential property insurance in Florida.. The FHCF charges each insurer an actuarially-determined premium for the coverage provided, but when the cash balance of the FHCF is not sufficient to meet its obligations, it can rely on the proceeds of revenue bonds backed by assessments on most types of property and casualty insurance premiums.

In general, the FHCF covers a percentage of the insurer's hurricane losses in excess of the insurer's retention (similar to a deductible), up to a maximum payout. An insurer's coverage percentage is 90 percent, 75 percent, or 45 percent, as selected by the insurer when it executes its FHCF reimbursement contract. The insurer's retention is based on its share of the FHCF's total retention (approx. $9.1 billion for the 2023-2024 contract year), and the maximum payout is the insurer's share of the statutory coverage limit (currently $17.0 billion).

Estimated Financial Position for 2023-2024 Contract Year

- Estimated Post-Even Bonding Capacity:: $8.4 billion
- Pre-Event Bonds: $3.5 billion
- Projected 2023 Year-End Fund Balance (After Hurricane Ian Losses): $3.9 billion

As of October 26, 2022, the FHCF is estimating a potential $1.2 billion shortfall for which it may need to exercise its statutory assessment authority.

CITIZENS PROPERTY INSURANCE CORPORATION

MISSION

Citizens' mission is to efficiently provide property insurance protection in Florida to those who are, in good faith, entitled to obtain coverage through the private market but are unable to do so, while also providing levels of customer service that are comparable to the standards of the private market.

PURPOSE

Citizens was created to ensure that there is an orderly market for property insurance for residents and businesses of this State.

SUMMARY

The Legislature created Citizens in August 2002 as a not-for-profit, tax-exempt, government entity. It provides property insurance to eligible Florida property owners who are unable to find property insurance coverage in the private market. Citizens customers include Florida home, condominium, and businessowners. Citizens is funded by policyholder premiums. In addition, if its surplus is depleted in the wake of a particularly devastating storm or series of storms, Florida law requires that Citizens levy assessments on most Florida property-casualty insurance policyholders until any deficit is eliminated.

Citizens operates according to statutory requirements established by the Legislature and is governed by a Board of Governors (Board). The Board administers a Plan of Operation approved by the Florida Financial Services Commission, an oversight panel made up of the Governor, CFO, Attorney General, and Commissioner of Agriculture. Members of the Citizens board are appointed as follows:

- The Governor appoints three members, one of whom serves as a consumer representative.
- The CFO appoints two members and names one board member to serve as Chairperson.
- The President of the Florida Senate appoints two members.
- The Speaker of the Florida House of Representatives appoints two members.

An applicant is eligible for coverage from Citizens if one of the following criteria is met:

- no comparable private-market offers of coverage are received, or
- comparable private-market offers of coverage are received, but the premiums are more than 20 percent higher than a comparable Citizens policy.

As of November 30, 2022, Citizens was the largest property insurer in Florida with approximately 1,126,319 policies in force, which is in the range of 15 percent of the property insurance market.

Citizens' coverages are currently divided into three separate accounts, as follows:

- Personal Lines Account (PLA) – Personal Residential Multiperil Policies - consists of homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies. Provides comprehensive, multiperil coverage statewide, except for those areas contained in the Coastal Account. Provides coverage, excluding coverage for wind,

in areas within the Coastal Account. As of November 30, 2022, the PLA had 899,930 policies in force.

- Commercial Lines Account (CLA) – Commercial Residential and Commercial Non-residential Policies - consists of condominium association, apartment building, homeowner's association, and commercial non-residential business properties. The CLA writes coverage for basic property perils statewide, except for those areas within the Coastal Account. However, the CLA writes coverage for basic property perils that do not provide coverage for the peril of wind on risks located in areas within the Coastal Account. As of November 30, 2022, the CLA had 995 policies in force.
- Coastal Account – Wind-only and Multiperil Policies - Consists of wind-only and multi-peril policies for personal residential, commercial residential, and commercial non-residential issued in limited eligible coastal areas. Citizens must offer policies that solely cover the peril of wind and may offer multiperil policies. As of November 30, 2022, the Coastal Account had 225,394 policies in force.

Citizens will combine these three accounts into a single account upon Citizens eliminating all outstanding financial obligations. A single account structure will allow Citizens to access its entire surplus to pay claims.

Surplus as of 2022

Account	Surplus
PLA	$320,000,000
CLA	$1,950,000,000
Coastal	$2,230,000,000
Total	$4,500,000,000

Surcharges or Assessments if Citizens Incurs a Deficit

- **Citizens Policyholder Surcharges**: if Citizens depletes its surplus and incurs a deficit in a particular account, it must levy a Citizens Policyholder Surcharge of up to 15 percent per account for each of Citizens' three accounts – the Personal Lines, Coastal, and Commercial Lines accounts. If a deficit is incurred in each of the three accounts, policyholders would see a 45 percent surcharge. These surcharges are added to the annual premium. If Citizens combines its three accounts, the Citizens' Policyholder Surcharge will be limited to 30 percent total.
- **Regular Assessments**: if the policyholder surcharge for an account does not cover a deficit in the Coastal Account, Citizens may levy a regular assessment of up to 2 percent of premium or 2 percent of the deficit. The assessment is levied on all lines of property and casualty policies in the state (excluding Citizens' policies) except workers' compensation and medical malpractice.
- **Emergency Assessments**: if a deficit remains upon the exhaustion of the policyholder surcharge and regular assessment for the coastal account or the exhaustion of the

policyholder surcharge for the PLA and CLA, Citizens levies an emergency assessment of up to 10 percent of premium or 10 percent of the deficit per account, for a maximum total of 30 percent (if all 3 accounts have a deficit). This assessment can be collected for as many years as is necessary to cure a deficit. Emergency assessments are levied on all property and casualty policies in the state (including Citizens' policies) except workers' compensation and medical malpractice.

MAJOR TOPICS 2019-2022

From 2019 through 2022, the Members of the Insurance & Banking Subcommittee considered legislation dealing with the following topics:

- Citizens Property Insurance Corporation
- Property Insurance
- Florida Hurricane Catastrophe Fund
- Workers' Compensation Insurance
- Long Term Care Insurance
- Fire Safety and Prevention/Florida Fire Prevention Code
- Insurer Solvency
- Discriminatory Insurance Practices
- Insurance Agents and Agencies
- Financial Institutions
- Protection for Vulnerable Investors
- Money Services Businesses
- Motor Vehicle Insurance
- Family Trust Companies
- Consumer Finance Loans
- Continuing Care Retirement Communities
- Consumer Report Security Freezes

RECENTLY PASSED LEGISLATION

2019 Legislature

CS/CS/CS/HB 301 - Insurance

The bill made the following changes regarding insurance:

- **Florida Hurricane Catastrophe Fund** – increased reimbursement for loss adjustment expenses from 5 to 10 percent of reimbursed losses for contracts effective on or after June 1, 2019
- **Motor Vehicle Salvage** – authorized titles to be surrendered electronically, and provided that electronic signatures complying with certain conditions may be used for required signatures
- **Applications for Insurance** – corrected a conflict in current law and removed a notarization requirement for a workers' compensation insurance application
- **Right of Contribution for Defense Costs** – provided for courts to order insurers to pay their share of defense costs in certain circumstances, with an exception for motor vehicle insurance and medical professional liability insurance

- **Civil Remedies Against Insurers** – prohibited an insured from filing a civil remedy notice within 60 days after an appraisal is invoked; removed a provision authorizing the Department of Financial Services to return the notice for lack of specificity
- **Foreign and Alien Insurer Eligibility** – added a new condition by which the Office of Insurance Regulation may waive a requirement related to authorizing insurers from other states and countries to do business in Florida
- **Risk-based Capital** – changed the method of determining risk-based capital for multi-state health maintenance organizations and multi-state prepaid limited health service organizations
- **Surplus Lines Export Eligibility** – lowered the home value threshold to $700,000 for an exception related to insuring residential property with a surplus lines insurer
- **Agent Fees** – removed the $35 cap on the per-policy fee surplus lines agents may charge for each exported policy; allowed retail agents to receive a reasonable per-policy fee; provided fee notice requirements
- **Unfair Insurance Trade Practices** – permitted an insurer to offer and give insureds goods or services of any value for the purposes of loss control or loss mitigation related to covered risks
- **Discounts for Purchase of Multiple Insurance Policies** – expanded the allowance of multiple policy discounts in certain circumstances
- **Proof of Mailing** – revised proof of mailing provisions for certain motor vehicle insurer notices
- **Secondary Notice Prior to Life Insurance Policy Lapse** – enhanced the notice of lapse requirements for life insurance policies, subject to certain exceptions
- **Property Insurance Claim Mediation –** allowed the insurer to issue the required notice at the time the insurer issues and renews a policy or, as currently provided, at the time a claim is filed
- **Prepayment of Motor Vehicle Insurance Premium –** reduced the minimum amount of premium that must be collected for motor vehicle insurance at the initial issuance of a policy

The bill became effective July 1, 2019, except as otherwise expressly provided.

CS/HB 617 - Homeowners' Insurance Policy Disclosures

Florida law requires every homeowner's property insurance policy to include a notice stating that the policy does not include flood insurance. However, some homeowner's policies do include flood insurance coverage. Since the notice is required by law, the Office of Insurance Regulation was without authority to approve a policy that did not include the flood notice, even when the policy did include flood coverage. The bill required the specified flood insurance notice only if the policy does not include flood coverage.

The bill became effective July 1, 2019.

CS/CS/HB 673 - Insurer Guaranty Associations

In response to recent long-term care insurer insolvencies, the bill expanded the assessment base of the Florida Life and Health Insurance Guaranty Association (FLAHIGA) to include life insurers, annuity insurers, and most health maintenance organizations (HMOs) in order to fund long-term care insurer impairments and insolvencies. Currently, only health insurers are assessed. Any assessments related to a long-term care insurer would be allocated 50 percent to health insurers and HMOs and the remaining 50 percent to life and annuity insurers. An assessment is capped at 0.5 percent of the sum of the insurer's premiums written in Florida for the preceding calendar year. The new assessment allocation applies only to assessments that result from a long-term care insurer being determined to be impaired or insolvent on or after the effective date of the bill. The bill also provided for powers and duties of the Florida Health Maintenance Organization Consumer Assistance Plan (HMOCAP) in the event of a long-term care insurer impairment or insolvency.

Additionally, the bill removed the interest rate cap on the FLAHIGA's coverage for long-term care or any other health insurance benefit. The bill clarified that Medicare, Medicaid, and the Children's Health Insurance Program are excluded from the FLAHIGA's coverage and assessments. The bill added an exclusion for structured settlement annuity benefits to which a payee, or a beneficiary if the payee is deceased, has transferred his or her rights in a structured settlement factoring transaction. Lastly, the bill amended the FLAHIGA's powers and duties and adds two director positions to the FLAHIGA's board, one of which must be a director of the HMOCAP board of directors.

The Revenue Estimating Conference estimated SB 626, a bill substantially similar to CS/CS/HB 673, to have no cash impact on state revenues in Fiscal Years 2019-20 and 2020-21 and to have a recurring impact thereafter that is indeterminate. The bill had no fiscal impact on local governments and an indeterminate fiscal impact on the private sector.

The bill became effective upon becoming a law.

CS/HB 925 - Warranty Associations

The bill revised the financial requirements for home and service warranty unearned premium reserves, home and service warranty net assets to written premium ratios, and service warranty reserve deposits to be based only on warranty contracts in force in Florida. The unearned premium reserve must be maintained in a separate auditable account for contracts in force in Florida. The bill also provided that a home and service warranty association that is located in Florida, but sells warranties to consumers outside Florida, must comply with all financial requirement laws in those states.

The bill provided that home warranties sold in Florida may not exclude coverage because of rust or corrosion to an otherwise covered appliance, unit, or system, unless the rust or corrosion was a contributing cause of the mechanical breakdown or failure. The bill established that, if a home warranty covers the replacement of components of an HVAC system due to wear and tear, but does not cover functional components of the systems necessary to maintain the compatibility or efficiency requirements of the manufacturer, the contract must:

- provide the consumer with the option, at an additional cost, to purchase replacement coverage necessary to maintain the compatibility and efficiency requirements of the manufacturer, and
- meet disclosure requirements related to the coverage limitations and additional coverage options.

The bill became effective July 1, 2019, except as otherwise expressly provided.

HB 983 - Ratification of Rules of the Department of Financial Services

During the 2018 Regular Session, the Legislature authorized workers' compensation wage replacement benefits in specified circumstances for post-traumatic stress disorder (PTSD) suffered by a first responder, i.e., a law enforcement officer, a firefighter, an emergency medical technician, or a paramedic, regardless of whether the individual's PTSD is accompanied by a physical injury requiring medical treatment. The Department of Financial Services (DFS) adopted a rule implementing this law.

A statement of estimated regulatory costs (SERC) must be prepared if a proposed rule will have an adverse impact on small business or is likely to directly or indirectly increase regulatory costs in excess of $200,000 aggregated within one year after implementation. If the SERC shows that the adverse impact or regulatory costs of the proposed rule exceeds $1 million in the aggregate within five years after implementation, then the proposed rule must be submitted to the Legislature for ratification. The DFS SERC indicates that the rule will exceed $1 million within five years after implementation. Accordingly, the rule must be ratified by the Legislature to become effective. As such, Rule 69L-3.009, F.A.C., was submitted to the Legislature for ratification.

The bill ratified Rule 69L-3.009, F.A.C. The bill served no other purpose and is not codified in the Florida Statutes. The bill specified that after becoming law, its enactment and effective dates will be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate.

The bill became effective upon becoming a law.

CS/CS/CS/HB 1033 - Continuing Care Contracts

The Office of Insurance Regulation (OIR) has enforcement authority over continuing care retirement communities (CCRCs). However, the CCRC statutes lack the framework that the OIR uses to protect consumers of other insurance products, including early intervention concepts like impairment, a statutory requirement to provide supplementary information to support or explain filings, and clear authority to prohibit certain individuals from exercising control over a CCRC. The bill made the following revisions to the regulation of CCRCs:

- Improved early warning signs of a CCRC's solvency issues and provides the OIR with administrative tools to address declining financial conditions
- Remedied various ambiguities exploited in recent years by a distressed CCRC
- Provided the OIR with authority to disapprove and remove unqualified management
- Imposed an express duty on CCRC providers to produce records and gives the OIR standing to petition a court for production of such records
- Required that records be maintained in this state but permits cloud-based storage
- Clarified that CCRCs must appoint the Florida Chief Financial Officer for service of legal process
- Created new requirements for the provider to give notice to the residents or residents' council
- Improved the process for handling resident complaints to keep residents better informed
- Revised statutes relating to applications for licensure, acquisition, and expansion of a CCRC
- Revised annual, quarterly, and monthly reporting requirements for CCRCs
- Revised minimum liquid reserve requirements, duties of escrow agents, and procedures for withdrawals from a CCRC's reserve funds
- Amended grounds for suspension or revocation of a CCRC provider's certificate of authority
- Specified grounds for the issuance of an immediate final order to cease and desist or immediate final order suspending a CCRC provider's certificate of authority

The bill had an indeterminate fiscal impact on the private sector. The bill had an indeterminate but insignificant fiscal impact on local and state government.

The bill became effective January 1, 2020, except as otherwise expressly provided.

CS/CS/CS/HB 1393 - Department of Financial Services

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

- Allowing the Division of Treasury to maintain warrants paid rather than turning them over to the Division of Accounting and Auditing and extending the retention period from five to ten years
- Permitting a funeral director in charge to supervise up to 2 facilities, provided they

are within a specified distance from one another
- Authorizing out of state trust companies to service a funeral or cemetery's care and maintenance trust fund
- Providing criteria for internship programs for a joint funeral director and embalmer license applicant
- Allowing out-of-state trust companies to receive funds from a preneed contract without obtaining a preneed license
- Requiring notice be sent to purchasers of preneed services when the services have not been rendered after a specified time frame and providing for distribution of funds held in trust
- Revising the method for identification of state-owned and leased buildings for State Fire Marshal (SFM) purposes
- Requiring that inspection reports for fire protection and control systems should be submitted pursuant to statewide procedures to be set by the SFM
- Providing for a uniform fire alarm permit for installing, replacing, or repairing a fire alarm system
- Directing SFM to develop employer best practices for firefighter cancer prevention
- Allowing licensees who currently hold a limited license as an industrial fire or burglary agent to renew their license, but prohibiting new licenses from being issued
- Authorizing DFS discretion to deny an application for an insurance agency license on the grounds that another jurisdiction has taken an adverse action against a professional license held by the agency or a person who manages or controls such agency
- Allowing formerly disqualified agents who have served half of the disqualifying period to apply for a probationary license
- Allowing DFS to automatically disburse certain unclaimed property accounts to verified claimants
- Creating the Florida Blockchain Task Force

The bill had no impact on state or local government expenditures. It had a positive impact on local government revenues.

The bill became effective July 1, 2019.

2020 Legislature

CS/SB 292 - Insurance Claims Data

The bill established a statutory framework for a practice that routinely occurs in the insurance industry. The bill defined "loss run statement" as a report that contains the policy number, the period of coverage, the number of claims, the paid losses on all claims, and the date of each loss. Loss run statement does not include supporting claim file documentation, such as copies of claim files, investigation reports, evaluation statements, insureds' statements, and documents protected by common law or statutory privilege.

The bill provided that, within 15 calendar days of an insured's request for a loss run statement, all Florida licensed and surplus lines insurers must provide to the insured either the loss run statement or, for personal lines of insurance, information on how to obtain a loss run statement from a consumer reporting agency at no charge. An insured may request a loss run statement from an insurer after receiving information from a consumer reporting agency. The loss run statement that the insurer provides must be a five-year loss run history for five continuous years before the year in which the insured makes the request, or the complete loss run history if it is less than five years. The bill required that the insurer notify the insured's agent of record that it provided the loss run statement to the insured at the time that the insurer provided it. The bill established that no insurer shall be required to provide loss reserve information as part of a loss run statement. The bill also prohibited an insurer from charging an insured for the first loss run statement that an insured requests annually.

The bill became effective January 1, 2021.

CS/HB 437 - Nurse Registries

Among other services, workers' compensation covers attendant care provided to an injured worker because of their work-related injury. Attendant care includes a wide variety of services from skilled nursing care to unskilled tasks, such as bathing, dressing, personal hygiene, and administration of medications. Most attendant care is provided by licensed medical providers; however, family members may provide and receive carrier payment for non-professional attendant care services, excluding normal household duties.

A nurse registry is an agency licensed to secure temporary employment for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, certified nursing assistants, homemakers, and companions in a patient's home or with health care facilities or other entities. The providers referred by the nurse registry are hired as independent contractors by the patient, health care facility, or another business entity. A workers' compensation carrier may use a nurse registry to place attendant care services to be rendered to an injured worker, but nurse registries are not expressly mentioned in the workers' compensation statute. Attendant care is care rendered by trained professional attendants that is beyond the scope of household duties.

The bill specifically authorized a workers' compensation insurer to use a licensed nurse registry to place authorized compensable attendant care services for the benefit of an injured worker.

The bill became effective July 1, 2020.

CS/HB 529 - Insurance Guaranty Associations

The bill changed the amount of coverage that the Florida Insurance Guaranty Association (FIGA) must provide for each condominium unit within a condominium association, when a claim is made and the condominium association's property insurer is insolvent, from a maximum of $100,000 multiplied by the number of units to $200,000 multiplied by the number of units.

The bill also changed the amount of emergency assessments that FIGA is authorized to levy against any insurer required to participate in FIGA from a maximum of two percent of that insurer's net written premiums in Florida for the kinds of insurance within the accounts maintained by FIGA for payment of claims (automobile insurance account and all other insurance account) to a maximum of four percent of the same premiums.

The bill became effective July 1, 2020.

SB 540 - Insurance Guaranty Associations

The Florida Insurance Guaranty Association (FIGA) assumes the rights and duties of insolvent Florida insurers, including claims adjusting. FIGA handles claims involving insolvent Florida insurers and claims on Florida policies issued by liquidated foreign insurers who belong to another state's guaranty association. The bill allowed those employees to adjust Florida claims without being licensed adjusters, if authorized by a contract between FIGA and another state's guaranty association. It also allowed FIGA employees to adjust claims without being licensed adjusters.

If an insolvent insurer's assets are insufficient to pay all claims, FIGA can issue post-insolvency assessments against property and casualty insurers to obtain funds to pay the remaining claims. The bill clarified that the assessment due from member insurers will be a uniform percentage of premium collected instead of based on a proportion of the total net direct written premium for the prior calendar year. The bill established that assessment installment payments made by FIGA members may be made quarterly rather than monthly.

The Florida Workers' Compensation Guaranty Association (FWCIGA) assumes the right and duties of the insolvent Florida workers' compensation insurers or self-insurance funds and pays the claims of its policyholders. FWCIGA is funded through the liquidation of insolvent insurers, potentially including a portion of the estates of insolvent

insurers in other states. FWCIGA has the authority to levy assessments on workers' compensation insurers if insolvent insurers' estates are insufficient to pay claims. The bill clarified the method by which assessments are levied against insurers and collected by FWCIGA related to policy deductibles and to retrospectively rated policies, which are dependent on losses during the current policy period. The bill provided the authority for FWCIGA to audit reports from insurers regarding the payments made to FWCIGA and the amounts collected from policyholders.

The bill became effective July 1, 2020.

CS/CS/HB 813 - Protection of Vulnerable Investors

The bill allowed a securities dealer or investment adviser to delay a disbursement or transaction of funds or securities from the account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner if the securities dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction. A specified adult is an individual who is age 65 or older or who meets the definition of "vulnerable adult" under Florida's Adult Protective Services Act (APS Act).

The suspected financial exploitation must be immediately reported to the Florida Abuse Hotline if so required by the APS Act. Not later than three business days after placing a delay, the securities dealer or investment adviser must notify all parties authorized to transact business on the account as well as any designated trusted contact, unless such person is believed to be engaged in the suspected financial exploitation. Not later than three business days after placing or extending a delay, the securities dealer or investment adviser must notify the Office of Financial Regulation of the delay or extension. A delay expires in 15 business days but may be terminated sooner. The securities dealer or investment adviser may extend the delay for up to an additional 10 business days. The length of the hold may be shortened or extended by a court of competent jurisdiction. The bill required a securities dealer or investment adviser to annually conduct training that is reasonably designed to educate its associated persons on issues pertaining to financial exploitation. A securities dealer, an investment adviser, or an associated person who in good faith and exercising reasonable care complies with the bill is immune from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction.

The bill became effective July 1, 2020.

SB 1092 - Fire Prevention and Control

The bill created the Firefighter Cancer Decontamination Equipment Grant Program within the Division of State Fire Marshal (DSFM). The program provides financial assistance to fire departments, including volunteer departments, in an effort to help

protect firefighters from acquiring cancer. Funds allocated through the program will assist fire departments in purchasing equipment, supplies, and education training related to mitigating exposure to hazardous fire contaminants. Grants will be awarded on a need-based basis and require recipients to contribute a minimum of 25 percent nonstate funding. DSFM was given rulemaking authority to adopt rules and procedures for the program.

The bill gave independent special fire control districts the ability to provide fire control and rescue services outside of established geographical boundaries, in cooperation with another governmental agency when such agency shares powers with the district.

The bill provided $250,000 in recurring funds from the Insurance Regulatory Trust Fund to implement the program.

The bill became effective July 1, 2020.

CS/CS/CS/HB 1391 - Technology Innovation

The bill abolished the Division of State Technology within the Department of Management Services (DMS) and established the Florida Digital Service (FDS) in its place. It also created the Division of Telecommunications within DMS. The bill established the duties and responsibilities of FDS, including the development and implementation of information technology (IT) standards for state agencies with a focus on interoperability and enforcement of the state's cloud-first policy. FDS must create and maintain a comprehensive data catalog that lists the data elements housed within each state agency, and FDS must create a data dictionary. FDS must conduct a market analysis at least every three years to determine whether IT resources within each state agency are used in the most cost-effective manner, whether agencies are complying with the state's cloud first policy, and whether agencies are using best practices with respect to IT. The bill allowed cabinet agencies to adopt alternative IT standards than those developed by FDS.

The bill also created the Financial Technology Sandbox (sandbox) within the Office of Financial Regulation (OFR) to allow a sandbox licensee to make an innovative financial product or service available to consumers as a money transmitter, payment instrument seller, or lender of consumer finance loans during a sandbox period that is initially 24 months but can be extended one time for an additional 12 months. Upon approval of an application, a sandbox licensee is exempt from specified provisions of general law and the corresponding rule requirements during the sandbox period. OFR may initially authorize a sandbox licensee to provide the financial product or service to a maximum of 15,000 consumers but may authorize up to 25,000 consumers if the sandbox licensee demonstrates adequate financial capitalization, risk management processes, and management oversight.

The bill became effective July 1, 2020, except as otherwise expressly provided.

CS/CS/HB 1393 - Pub. Rec./Financial Technology Sandbox

CS/CS/CS/HB 1391, with which this bill was linked, created the Financial Technology Sandbox (sandbox) within the Office of Financial Regulation (OFR). The sandbox is intended to allow financial technology innovators to test new products and services in a supervised, flexible regulatory sandbox using exceptions to specified general law and waivers of the corresponding rule requirements under defined conditions. The bill created a public record exemption for the following information provided to and held by OFR in a sandbox application:

- The reasons why a general law enumerated in the sandbox statute prevents the innovative financial product or service from being made available to consumers
- Specified applicant information that OFR must consider in deciding whether to approve or deny an application for the sandbox

The bill provided that this information may be released to appropriate state and federal agencies for the purposes of investigation. The bill also clarified that nothing in this public record exemption shall be construed to prevent OFR from disclosing a summary of the innovative financial product or service.

The bill provided for repeal of the exemption on October 2, 2025, unless reviewed and saved from repeal by the Legislature, and provides a public necessity statement as required by the State Constitution.

The bill became effective July 1, 2020, except as otherwise expressly provided.

CS/HB 1409 - Pub. Rec./Records of Insurers/Department of Financial Services

The bill created a public records exemption to protect insurers and insureds from the release of information if an insurance company goes insolvent.

The bill provided that the following records held by the Department of Financial Services (DFS) are confidential and exempt from public records requirements:

- All personal financial and health information of a consumer, including a family member or dependent
- Underwriting files of a type customarily maintained by an insurer transacting lines of insurance similar to lines transacted by the insurer
- Personnel and payroll records of the insurer
- Consumer claim files
- U.S. Own Risk and Solvency Assessment (ORSA) summary reports, a substantially similar ORSA report, and any supporting documents submitted to the Office of Insurance Regulation (OIR)
- A corporate governance annual disclosure and any supporting documents submitted to OIR

- Information received from the National Associations of Insurance Commissioners, a governmental entity of any state, the Federal Government, or a government of another nation which is confidential and is held by DFS for use relating to insurer solvency

Records or portions of records made confidential and exempt by this bill may be released under particular circumstances.

The bill provided that this public records exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provided a statement of public necessity as required by the Florida Constitution.

The bill became effective July 1, 2020.

CS/CS/HB 1439 - Bank Property of Deceased Account Holders

The bill authorized certain family members of a deceased person (decedent) to present a sworn affidavit and certified death certificate to a financial institution in Florida and receive up to $1,000 from "qualified accounts" (depository accounts or certificates of deposit held in the sole name of the decedent without a pay-on-death or any other survivor designation) if the total amount of the combined funds in all qualified accounts at that financial institution is less than $1,000 and if at least six months have passed since the decedent's death. No court proceeding is needed. The affiant (a person who swears to an affidavit) must attest that a personal representative has not been appointed to administer the decedent's estate, that no formal or summary probate proceedings has been commenced, and that the affiant has no knowledge of the existence of any will or other document relating to the distribution of the decedent's estate. The financial institution is not required to determine whether the contents of the sworn affidavit are truthful, and the financial institution is fully released and discharged from further liability for the amount paid.

The bill also created a process by which a beneficiary of an intestate decedent (a person who died without a will) may file an affidavit with the court to request distribution of certain assets of the decedent. This process is available if the intestate decedent left only personal property that is exempt from probate proceedings, personal property that is constitutionally protected from creditors' claims, and nonexempt personal property valued at less than the sum of $10,000 and certain funeral and medical expenses. The decedent must have died more than one year prior, and no Florida probate proceeding may be pending.

The bill became effective July 1, 2020.

CS/CS/SB 1606 - Insurance Administration

The bill made the following changes regarding insurance:

- **Motor Vehicle Salvage –** effective upon becoming law, conformed electronic signature requirements governing motor vehicle odometer disclosure statements to the applicable federal requirements
- **Workers' Compensation Payments to Injured Workers –** allowed insurers to make a payment to an injured worker, upon authorization of the injured worker, by sending money electronically via an account with a state licensed money transmitter
- **Civil Remedies Against Insurers –** required the insurer to designate an email address for delivery of required pre-suit civil remedy notices; mandated that the Department of Financial Services (DFS) forward the notices DFS receives from claimants to the designated insurer email; starts the insurer's statutory 60 day cure period, which is triggered by the notice, from the day the insurer receives the forwarded notice; and extended the statute of limitation for lawsuits against an insurer for 60 days, if the statutorily allowed property appraisal process is invoked in the claim
- **Insurer Trade Secrets –** prohibited the publishing or dissemination of aggregate information containing protected insurer trade secret information when the information can be extrapolated from the aggregate information
- **Insurance Ratemaking and Form Filing Deadlines –** extended the closure of the Office of Insurance Regulation's review period for property and casualty rate and form filings to the close of the following business day if the deadline falls on a weekend or holiday
- **Residential Condominium Loss Assessments –** clarified that a condominium unit owner's property loss assessment coverage in effect one day before the date of an event causing a loss is the applicable coverage for the loss
- **Motor Vehicle Insurance –** reduced the prohibition on cancellation of an initial motor vehicle insurance policy from 60 days to 30 days consistent with a related law change passed in 2019
- **Travel Insurance –** created a new chapter of statute based on the Travel Insurance Model Act of the National Association of Insurance Commissioners to regulate the transaction of travel insurance in the state

The bill became effective July 1, 2020, except as expressly provided by the bill.

2021 Legislature

CS/CS/CS/SB 76 - Insurance

The bill made the following changes related to insurance:

Roof Damage Insurance Claims – established that contractors or unlicensed persons acting on their behalf may not solicit or incentivize residential property owners to file roof damage insurance claims; established that public adjusters, public adjuster apprentices, or unlicensed persons acting on their behalf may not incentivize residential property owners to file roof damage insurance claims; and provided penalties for violation of these prohibitions.

Office of Insurance Regulation (OIR) – established that each insurer or insurer group doing business in Florida shall file specific data regarding the litigation of personal and commercial residential property insurance claims with OIR on an annual basis; clarified that OIR has the authority to examine managing general agents, including insurers' affiliates, in the same way that it examines insurers; and provided that examination of affiliates will not extend to passive investors who do not provide services for, or have relationships with, an insurer.

Citizens Property Insurance (Citizens) – revised eligibility for residential property owners to obtain coverage from Citizens so that they are not eligible for Citizens' coverage if they can obtain coverage from private insurers that is less than 20 percent greater than the premium for comparable coverage from Citizens; established that Citizens may add 1 percent per year to its cap on rate increases until it reaches a 15 percent cap on rate increases in 2026; established that if Citizens does not buy reinsurance to cover its projected 100-year probable maximum loss, it must still include the cost of such reinsurance in its rate calculations; and established that the Citizens' Board of Governors must approve budget allocations for employee salaries, raises for any individual employee in excess of 10 percent, and an overall employee compensation plan.

Property Insurance Claims and Litigation – changed notice of claims deadlines in the Insurance Code so that notice of any initial or reopened property insurance claim must be provided to an insurer within two years of the date of loss and supplemental claims within three years of the date of loss; created new statutory requirements for all residential and commercial property insurance lawsuits that are not brought by an assignee, including a ten-day presuit notice and demand, before bringing suit against an insurer; modified the current attorney fee statutes for such lawsuits so that the exclusive method of determining attorney fee recovery depends on the difference between the amount of damages obtained by the claimant and the presuit settlement offer; applied the presuit notice and demand requirements and the attorney fee modifications to licensed and surplus lines property insurers; and provided a framework for consolidation of multiple court actions involving coverage provided under the same residential property insurance policy for the same property.

The bill became effective July 1, 2021.

CS/SB 420 - Motor Vehicle Insurance Coverage Exclusions

The bill provided that a private passenger motor vehicle policy may exclude coverages for all claims or suits resulting from the operation of a motor vehicle by an identified individual who is not a named insured, provided the identified individual is named on the declarations page or by endorsement and the named insured consents in writing to such exclusion. Such individual would not be covered for damages that occur if he or she operates a motor vehicle that is insured under a policy that excludes the individual by name. The bill prohibited exclusion for periods when the individual is not operating a motor vehicle covered under the policy (e.g., a passenger in the vehicle), if the exclusion is discriminatory, or if the exclusion is inconsistent with the underwriting guidelines filed by the insurer. The bill also clarified that the identified individual must comply with existing financial responsibility and security requirements before operating a motor vehicle.

The bill became effective July 1, 2021.

CS/HB 425 - Disposition of Unclaimed Property

As part of the Department of Financial Services' (DFS) statutory responsibilities, DFS is to collect and return unclaimed property belonging to Florida residents. DFS maintains a database of unclaimed property in its possession. Claimants' representatives (registrants) are registered with DFS to gain access to the unclaimed property database and to seek authorizations from potential claimants of unclaimed property held by DFS to file claims on behalf of those claimants. The bill requires DFS to adopt forms entitled "Uniform Unclaimed Property Recovery Agreement" and "Uniform Unclaimed Property Purchase Agreement" (Purchase Agreement). These forms will be the exclusive means of a registrant engaging a claimant or seller to file an unclaimed property claim with DFS. The forms will be similar to the powers of attorney used by many registrants, but will be more claimant-friendly and will provide consumer protections, including a cap on fees and costs that registrants may charge claimants in all circumstances.

The bill specified what must be contained in the forms, including specific information about the amounts claimed or sold, the fees and costs received by the registrant, and identifying information for both the claimant or seller and the registrant. The forms must disclose the cap for the total fees and costs, or the total discount amount in the case of a Purchase Agreement, may be no more than 30 percent of the claimed amount. If the total fees and costs exceed 30 percent, the fee shall be reduced to 30 percent and the net balance remitted directly to the claimant by DFS. The bill also increased the value of property for which a claimant may submit an electronic claim from $1,000 to $2,000.

The bill became effective upon becoming a law.

HB 467 - Insurance Adjuster Examination

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

The bill became effective July 1, 2021.

SB 728 - Credit for Reinsurance

The bill amended reinsurance law to add criteria that an assuming insurer (reinsurer) must meet in order for a ceding insurer to be given credit for reinsurance. Credit for reinsurance means that a ceding insurer is permitted under statutory accounting rules to recognize reinsurance as an asset or as a reduction from liability for the amount of the ceded liability or risk transferred. The criteria that an assuming insurer must meet to receive credit for reinsurance include having its head office or its domicile, and being licensed in, a reciprocal jurisdiction, maintaining minimum capital and surplus, meeting minimum solvency or capital ratios, providing prompt notice to the Office of Insurance Regulation (OIR) if it falls below minimum requirements or has legal action taken against it, responding to OIR's document requests, and maintaining a practice of prompt payment of claims.

The bill also specified certain elements that an assuming insurer must include in its reinsurance agreements in order for the ceding insurer to take credit for reinsurance. The bill required that an assuming insurer's regulatory authority confirm to OIR that the assuming insurer has complied with the capital and surplus requirements and solvency or capital ratio requirements in the bill. It also established that a ceding insurer may only take credit for reinsurance agreements entered into, amended, or renewed on or after the date at which the assuming insurer has met the criteria in the bill. Additionally, OIR may suspend or revoke the assuming insurer's eligibility if the assuming insurer does not continue to meet the mandatory criteria.

If insurers are able to take credit for reinsurance for additional reinsurance transactions, they will be able to recognize additional assets or reductions in liability. The greater an insurer's assets or lower its liabilities, the higher the insurer's surplus. The insurer's surplus provides a measure of financial stability and provides a source of funds in the event that reserves are inadequate.

The bill became effective July 1, 2021.

HB 797 - Florida Life and Health Insurance Guaranty Association

The bill made changes to the Florida Life and Health Insurance Guaranty Association (FLAHIGA), which is the guaranty association for most insurance companies that write

life and health insurance or annuities in Florida. In order to conform to the Life and Health Insurance Guaranty Association Model Act, the bill:

- added a definition for the term "Moody's Corporate Bond Yield Average,"
- amended the definition of "person" to include "limited liability company" and "governmental body or entity,"
- clarified that, in dealing with an impaired domestic insurer, the FLAHIGA may assume or reissue covered policies, in addition to guaranteeing and reinsuring the policies,
- expressly provided that the FLAHIGA has the right to appear or intervene before a court or agency in another state,
- provided that, for purposes of the FLAHIGA's standing to appear before any court in this state, the FLAHIGA's powers and duties include reissuing or modifying covered policies,
- provided that the FLAHIGA may recover payment of improper claims,
- clarified that the FLAHIGA has the authority to join an organization of other state guaranty associations to further the purposes and to carry out the powers and duties of the FLAHIGA,
- as to Class A assessments, which pay the FLAHIGA's general administrative expenses, removed the annual cap of $250, permits the assessments to be made on a pro rata basis, and allowed the FLAHIGA's board to credit the assessments against future assessments related to insurer insolvencies,
- provided that, if an insurer's assessment is deferred because the assessment would endanger the insurer's financial solvency, the insurer must pay the assessment once it regains financial strength,
- removed the reduced assessment cap for nonprofit annuity insurers that issue policies to educational groups, thus making such insurers subject to the assessment cap for all other annuity insurers, and
- directed that the FLAHIGA establish a procedure for removing a board member if that member becomes an impaired or insolvent insurer and establish a policy and procedure to address conflicts of interest.

The bill became effective July 1, 2021.

CS/CS/CS/HB 1209 - Department of Financial Services

The bill modified several areas regulated by the Department of Financial Services (DFS), as follows:

- established the Division of Public Assistance Fraud as a criminal justice agency,
- provided that benefits payable for a state firefighter's cancer diagnosis will be paid from the State Risk Management Trust Fund (SRMTF) rather than the employing state agency,
- prohibited employees covered by the SRMTF from engaging in retaliatory conduct against a sexual harassment victim; criminalizes knowingly disseminating personal identifying information of a sexual harassment victim,
- modified composition of the Board of Funeral, Cemetery, and Consumer Services (Board) and procedures for filling Board vacancies; allowed virtual Board meetings;

increased the criminal penalty for unlicensed funeral activity; allowed a cemetery company to sell monuments for use within a cemetery it does not own; allowed funeral director interns and combination funeral director and embalmer interns who meet specified requirements to continue acting as such while an application for full licensure is pending; clarified application of deposit requirements for fulfilled preneed contracts; amended regulations for monument retailers,

- broadened the definition of a two-component explosive,
- allowed contractors to begin repairing certain fire alarm systems before permit approval,
- modified continuing education requirements for certain insurance licensees, requirements for renewal appointments, and qualifications for insurance agents' customer representatives; increased the maximum length of suspension for title insurance agents; removed a notice requirement before exporting policies to a surplus lines insurer; allowed exporting of certain policies without meeting due diligence requirements; prohibited a person from requiring an insurance agent or agency to provide, and prohibited an insurance agent or agency from providing, the replacement cost estimator or other proprietary underwriting information as a condition to extending credit on real property,
- modified requirements for design and alteration of fire sprinkler systems; aligned membership of two fire related councils; extended deadlines to comply with minimum radio strength for fire department communications; prohibited anyone from influencing a firesafety inspector; prohibited firesafety inspectors from accepting compensation to induce their violation of the Florida Fire Prevention Code; modified a course requirement related to fire suppression equipment; allowed a volunteer firefighter to function in the same capacity while transitioning to a career firefighter,
- criminalized a bail bond agent's aiding or abetting of unlicensed activity, and
- criminalized false personation of DFS Investigative and Forensic Services personnel.

The bill became effective July 1, 2021, except as otherwise provided.

CS/CS/SB 1598 - Consumer Protection

The bill made the following changes to the Florida Department of Financial Services (DFS):

- Consumer Credit Scores and Security Freezes – deleted a provision specifying the fee a consumer reporting agency may charge to reissue or provide a new unique personal identifier to a consumer's representative to remove a security freeze; required insurers to notify applicants of the availability of DFS's free financial literacy resources at certain times
- Consumer Services – required that licensees provide documents when responding to written requests from DFS's Division of Consumer Services
- Professions – established insurance adjusting firms' licensure requirements and penalties; removes the licensure fee; added grounds upon which DFS may revoke or suspend licenses; established penalties for aiding and abetting unlicensed adjusting firms; prohibited a licensed contractor or subcontractor from advertising, soliciting,

offering to handle, handling, or performing public adjuster services unless licensed as a public adjuster; prohibited persons other than a licensed public adjuster or attorney from offering to initiate or negotiate on behalf of an insured or advertising services which require a public adjuster license; prohibited a public adjuster, public adjuster apprentice, or public adjusting firm who solicits a claim and does not enter into a contract with an insured or third party claimant from charging or receiving payment from an insured or a third party claimant

- Insurance Agency Names – provided specific authority for DFS to disapprove insurance agency names containing the words "Medicaid" and "Medicare"
- Industrial Class Insurers – amended the laws regarding industrial life insurance, small policies written upon individual lives, so that no such policies may be sold in Florida after July 1, 2021
- Policyholder Rights – extended the time that a policyholder has to cancel a contract with a public adjuster and amends the Homeowner Claims Bill of Rights; provided claims handling requirements, including policyholder notification of a change in adjuster, for both admitted and surplus lines insurers
- Export to Surplus Lines – mandated that the notification regarding the export of a policy to the surplus lines market, currently given only to commercial policyholders, be given to all policyholders
- Unfair or Deceptive Acts – added two grounds, based upon effectuating an entire insurance policy without consent, to the list of acts that constitute sliding
- Florida Insurance Guaranty Association (FIGA) Deductible – eliminated a $100 deductible that a policyholder must pay for a claim covered by FIGA
- Florida Workers' Compensation Insurance Guaranty Association – modified the definition of "covered claim" to provide coverage for claims under a workers' compensation policy that lapsed prior to an insurer's liquidation

The bill became effective upon becoming a law.

CS/HB 6077 - Assets of an Estate in Administration

A court having jurisdiction over the administration of an estate may order that part or all of the personal assets of the estate be placed with a financial institution designated by the court. Currently, the financial institutions where a court may order assets placed are a bank, trust company, or savings and loan association *(which savings and loan association is a member of the Federal Savings and Loan Insurance Corporation and doing business in this state)*. The bill removed the statutory reference to the Federal Savings and Loan Insurance Corporation, which was abolished in 1989, and removes other obsolete language.

The bill became effective July 1, 2021.

2022 Legislature

SB 156 - Loss Run Statements

The bill amended the loss run statement statutes that were enacted in 2020, so that they better reflect existing industry standards. It revised the number of years of loss history that a health insurer must provide for a group health insurance policy from a minimum of five years to a minimum of three years. The bill required that if a personal lines insured asks an insurer for a loss run statement after receiving information from a consumer reporting agency, the insurer must provide that statement within 15 days. It clarified that if a surplus lines agent provides a loss run statement to an insured on behalf of the insurer, the insurer is considered to have responded to an insured's request for a loss run statement. It established that loss run statement statutes do not apply to life insurers.

The bill resolved a conflict between the 2020 statutes and an existing statute regarding loss run statements for group health insurance policies by repealing the health-specific statute. Repealing this statute created a more seamless process for requesting a loss run statement regardless of the type of insurance for which the statement is requested. The bill established that, as applied to group health insurance, a loss run statement also includes premiums paid, number of insureds on a monthly basis, and dependent status. Finally, the bill clarified that for group health insurance, only plan sponsors, not individual employees covered by the group policy, may request a loss run statement.

The bill became effective upon becoming a law.

CS/HB 273 - Money Services Businesses

Within the chapter regulating money services businesses, the bill added a definition for "virtual currency" and amended the definitions of "electronic instrument," "monetary value," "money transmitter," "payment instrument," and "stored value." The amendments to these definitions provided clarity as to their meaning; made virtual currency expressly subject to money transmitter regulations but not regulations for other types of money services businesses; and clarified that a money transmitter license is only required for a person acting as an intermediary between two parties, meaning that neither person in a two-party transaction is required to be licensed.

As a result of the addition of virtual currency to the regulation of money transmitters, the bill made conforming changes to the prohibition on unlicensed activity, added rulemaking authority for recordkeeping requirements related to virtual currency, and amended the permissible investments statute. Without a change to the permissible investments statute, the effect would be to require a money transmitter that transmits virtual currency to not only have control over the virtual currency being transmitted but also hold the equivalent value in cash or other enumerated assets. Instead, the bill only required that, during the period of transmission, the money transmitter must hold virtual currency of the same type and amount owed or obligated to the other location or person on the receiving end of the transmission.

The bill became effective January 1, 2023.

CS/CS/HB 389 - Money Services Businesses

The bill amended fingerprinting statutes under ch. 560, F.S., relating to money services businesses (MSBs), by creating the term "control person" and repealed the definitions of "officer" and "responsible person." Some of the elements from these repealed definitions are made part of the "control person" definition. The bill inserted "control person" throughout ch. 560, F.S., in place of these repealed definitions as well as other positions within an MSB that are consolidated under the newly defined term "control person." A person who meets the definition of "control person," as defined in the bill, must submit fingerprints and be vetted by the Office of Financial Regulation (OFR). The bill clarified the OFR's duties associated with fingerprinting control persons who are added to existing MSBs. The bill also relocated the definition of "publicly traded" such that the definition applies to all current uses of the term "publicly traded" throughout the chapter regulating MSBs.

The bill became effective October 1, 2022.

CS/HB 453 - Officer and Firefighter Physical Examination Requirements and Records

Law enforcement officers, correctional officers, correctional probation officers, and firefighters who become disabled by tuberculosis, heart disease, or hypertension are entitled to a presumption that the disease was contracted in the line of duty, and is therefore compensable under workers' compensation law. To rely on the presumption in a legal dispute relating to a workers' compensation claim, the officer or firefighter must produce a copy of a pre-employment physical that failed to reveal 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. The law does not require a pre-employment physical for firefighters, but firefighters must pass a medical exam to be certified as a firefighter.

The bill provided that an officer or firefighter who is disabled by tuberculosis, heart disease, or hypertension is entitled to the presumption if an employing agency fails to maintain a record of a pre- employment physical for at least 5 years after the employee separates from the employing agency. If a firefighters' employing agency did not require a pre-employment physical, the firefighter may rely on a medical exam he or she took to become certified as a firefighter, so long as the medical exam failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

The bill became effective July 1, 2022.

SB 546 - Consumer Finance Loans

Under current law, consumer finance lenders must maintain liquid assets of at least $25,000 per location. In lieu of maintaining liquid assets, the bill authorized consumer finance lenders to provide a surety bond, certificate of deposit, or letter of credit in the amount of $25,000 for the first license and $5,000 for each additional license, up to a maximum of $100,000.

Under current law, consumer finance lenders are permitted to charge a borrower certain fees, including up to $25 for investigating the credit and character of the borrower. The exclusion of "prepayment penalties" from the list of permissible fees implies that consumer finance lenders are prohibited from charging prepayment penalties. The bill provided an express prohibition on prepayment penalties for consumer finance loans.

The bill became effective October 1, 2022.

CS/CS/CS/HB 749 - Fraud Prevention

The bill made changes to existing law to help prevent insurance fraud.

Electronic Insurance Verification – required that, in addition to driver licenses and identification cards, the Department of Highway Safety and Motor Vehicle's (DHSMV) electronic credentialing system shall display vehicle registration and insurance information, provide a driver with notification of any lapse in insurance coverage, and allow the driver to update policy information in the system. For Fiscal Year 2022-23, the bill directed DFS to transfer funds from to DHSMV and appropriated a nonrecurring sum of $1,413,270 to DHSMV for the implementation of these provisions of the bill.

Service Contracts and Agreements – established that sellers of service contracts that include automatic renewal provisions must allow a consumer to cancel these contracts in the way that the consumer accepted the contract; expanded the advertising violations for which a service agreement company or salesperson can be disciplined or charged with a crime; required that written, radio, or television advertisement disclosures by these companies and salespeople meet certain criteria; and required that these salespeople provide their full legal name, license numbers, and telephone numbers during solicitation calls.

Public Adjusters and Public Adjuster Apprentices – established a new maximum fine amount, not to exceed $20,000 per act, for public adjusters, public adjuster apprentices, or unlicensed individuals who commit certain prohibited acts during a state of emergency declared by the Governor.

Investigation by the Division of Investigative and Forensic Services (DIFS) or the State Fire Marshal (SFM) – deleted a provision that made it a misdemeanor to violate a statute regarding the investigation of fraudulent insurance claims and crimes related to a

fire or explosion loss; established that the Department of Financial Services (DFS) may fine insurers up to $2,000 per day if the insurer fails or refuses to comply with the investigation of a fire or explosion by DIFS or the SFM.

Prosecution of False and Fraudulent Insurance Claims – replaced the word "and" with the word "or" so that violations of certain statutes are separate crimes, and criminal prosecution for violation of either section must begin within 5 years of the violation; allowed an insurer that has been damaged by a false or fraudulent insurance act to recover investigation and litigation expenses, including attorney fees, if the insurer reported the false or fraudulent act to DIFS and there was a criminal adjudication of guilt.

The bill became effective upon becoming a law, except as otherwise provided.

CS/CS/HB 837 - Hurricane Loss Mitigation Program

The bill established that funds currently appropriated for the retrofitting of hurricane shelters may also be used for the construction of hurricane shelters. The bill transferred the Manufactured Housing and Mobile Home Mitigation and Enhancement Program, including the Mobile Home Tie-Down Program, from Tallahassee Community College to Gulf Coast State College. This transfer included all powers, duties, records and unspent appropriation balances of the programs. The bill saved the Hurricane Loss Mitigation Program (HLMP), which is funded by investment income from the Florida Hurricane Catastrophe Fund (FHCF) fund from repeal by extending its expiration date to June 30, 2032.

The bill maintained the annual $10 million transfer of investment income from the FHCF to the Division of Emergency Management to support the expenditures associated with the HLMP. This bill conformed to HB 5001, the General Appropriations Act for Fiscal Year 2022-2023.

The bill became effective July 1, 2022.

CS/SB 838 - Fire Investigators

Firefighters suffering from certain types of cancer are eligible for a special benefit package that provides a one-time payment of $25,000 and employer-sponsored health insurance, including reimbursement for any deductible, co-payment, or co-insurance costs the firefighter incurs for the treatment of cancer, while the firefighter is employed and for 10 years after the firefighter terminates employment.

The Legislature created the special benefit package in 2019 because reputable studies have demonstrated a link between firefighting and cancer. The bill amended s. 112.118, F.S., to extend the special benefit package to Florida-certified fire investigators who are similarly exposed to carcinogenic chemicals when they determine the origin and cause of

fires.

To qualify for benefits, a firefighter or fire investigator must: (1) have been working full-time as a firefighter, for a government employer, for at least 5 continuous years; (2) have not used tobacco products for at least the 5 years prior to the cancer diagnosis; and (3) have not been employed in any other position which is proven to create a high risk of cancer during the 5 years prior to the cancer diagnosis. The cost of the benefits must be paid by the employer.

The bill became effective July 1, 2022.

CS/HB 925 - Benchmark Replacements for London Interbank Offered Rate

For contracts and instruments lacking transition provisions relating to the discontinuation of the London Interbank Offered Rate (LIBOR), the bill provided for a transition to the Secured Overnight Financing Rate (SOFR) as the replacement rate for LIBOR; provided for conforming changes to be made to the contract or instrument; voided fallback provisions based on LIBOR; and provided for construction of rights and duties under contracts affected by the bill.

The bill also precluded liability, a claim, or a cause of action arising out of or related to the selection or use of SOFR or the determination, implementation, or performance of a conforming change. The bill provided a statement demonstrating the overpowering public necessity for the bill and a finding that there are no alternative means to meet this public necessity. Additionally, the bill contained a statement of legislative intent indicating that the bill is remedial in nature and applies retroactively to all contracts, agreements, mortgages, deeds of trust, leases, instruments, obligations, or securities, whether representing debt or equity, and including all interests in a corporation, partnership, or limited liability company, in existence on December 31, 2021.

The bill became effective upon becoming a law.

CS/CS/CS/HB 959 - Department of Financial Services

The bill made changes to programs of the Department of Financial Services (DFS):

- Amended laws related to a multi-year upgrade of the state's financial systems, known as the PALM Project (Planning, Accounting, and Ledger Management)
- Made employees of the Division of Rehabilitation and Liquidation part of the State Group Insurance Program
- Reduced penalties issued by the Division of Workers' Compensation, created educational tools to increase awareness and encourage compliance with workers' compensation laws, and eliminated in-person payroll audits for some construction businesses
- Amended requirements for certification as a firefighter or fire safety inspector by the Division of State Fire Marshal, increased penalties for violations of laws related to

fire protection systems, and updated boiler regulations
- Amended licensing requirements for embalmers and funeral directors regulated by the Division of Funeral, Cemetery, and Consumer Services
- Made 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
- Amended laws enforced by the Division of Insurance Agent and Agency Services to create notice requirements for insurance agencies that stop doing business, provided additional authority for the investigation of licensees, and revised laws that authorize the use of fingerprints in background checks to comply with federal law
- Transferred the Florida Patient's Compensation Fund to the CFO until dissolution by December 31, 2023

The bill became effective July 1, 2022, except as otherwise provided.

CS/HB 1023 - Insolvent Insurers

As a condition of selling and servicing insurance in Florida, insurers must be members of a guaranty association related to the lines of coverage the insurer sells. If an admitted insurer becomes unsound or insolvent and cannot be rehabilitated, the Department of Financial Services liquidates the insurer and the applicable guaranty association processes covered claims.

The bill made minor changes to the authorized procedures of two guaranty associations. For the Florida Insurance Guaranty Association, the bill permitted certain property and casualty insurers to: 1) pay assessments in quarterly installments rather than one full payment at the commencement of an assessment year; and 2) decline to recoup the cost of assessments if, for example, the cost of placing a surcharge on policies exceeds the cost of the assessment.

For the Florida Workers' Compensation Insurance Guaranty Association, the bill permitted workers' compensation insurers to: 1) pay assessments in quarterly installments, as above, and 2) directs rate- makers to consider the impact of missing claims data from insolvent insurers when determining workers' compensation insurance rates.

The bill became effective July 1, 2022.

SB 1058 - Property Insurer Reimbursements

The bill amended the conditions under which a collateral protection insurance policy, which is insurance placed by an insurer when a homeowner's policy on the property has lapsed, can be considered a "covered policy" and, thus, eligible for Florida Hurricane Catastrophe Fund (FHCF) coverage. The bill provided that a collateral protection insurance policy is eligible for FHCF coverage if it is placed for the amount of the last known

coverage, the amount that the homeowner was notified of by the collateral protection insurer, or the amount that the homeowner requests from the collateral protection insurer.

The bill defined "unsound insurer" as an insurer that the Office of Insurance Regulation has determined to be in unsound condition as defined in the Florida Insurance Code or an insurer that has been placed into receivership under ch. 631, F.S. The bill allowed any authorized insurer, not just Citizens Property Insurance Corporation (Citizens), to receive the transfer of FHCF coverage along with policies that it assumes from an unsound insurer, subject to an agreement with the State Board of Administration. The bill extended to authorized insurers the requirements that exist when Citizens assumes policies from unsound insurers and wishes to obtain coverage from the FHCF for those policies, and established additional requirements for both authorized insurers and Citizens. The bill replaced the statutory phrase "placed in liquidation" with the defined term "unsound insurer" so that FHCF coverage can be transferred to Citizens or an authorized insurer with policies that Citizens or such authorized insurer assumes from an unsound insurer or a liquidated insurer.

The bill established that if a covered event has occurred before the effective date of the transfer of the policies to the authorized insurer or Citizens, the authorized insurer or Citizens may only obtain coverage from the FHCF subject to an assignment of the remaining term of the unsound insurer's FHCF contract.

The bill became effective July 1, 2022, except as otherwise provided.

CS/SB 1190 - Two-way Radio Communication Enhancement Systems

The bill clarified that the authority having jurisdiction to determine the minimum radio signal strength for fire department communications has jurisdiction over buildings of any height, not just high-rise buildings. The bill established that two-way radio communication enhancement, or equivalent, systems may be used to comply with the minimum radio signal strength requirements for fire department communications. The bill also established that these systems are not required in apartment buildings that are 75 feet or less in height that also meet all of the following criteria: constructed using wood framing; have 150 or less dwelling units; and all dwelling units discharge to the exterior or to a corridor that leads directly to an exit as defined in the Florida Building Code (Code).

The bill established that evidence of wood frame construction shall be shown by the property owner providing building permit documentation that confirms this type of construction. The bill clarified that existing high-rise buildings, as defined in the Code, are not required to comply with minimum radio signal strength for fire department communications and two-way radio communication enhancement systems until January 1, 2025, but they must apply for the appropriate permit for installation by January 1, 2024. The bill also clarified that existing high-rise apartment buildings are subject to the same installation deadlines as all other existing high-rise buildings.

The bill became effective July 1, 2022.

CS/SB 1680 - Financial Institutions

The bill made the following changes to the financial institutions codes:

- Permitted 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
- Provided the Office of Financial Regulation (OFR) an additional 90 days to comply with the examination requirement for financial institutions if the federal regulator suspends or cancels a scheduled examination
- Required each director of a financial institution to review and sign a report of examination
- Clarified provisions relating to a financial institution's acquisition of another financial institution's assets or liabilities
- Amended the definition of "financial institution" for purposes of the Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act
- Relocated and clarifies a provision relating to a credit union's reporting of names and addresses of newly elected or appointed officers and directors
- Permitted the 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
- Allowed 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
- Provided 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
- Defined "de novo branch" in the context of interstate bank branching by state-chartered banks
- Permitted 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
- Amended the deadline for a family trust company to file an annual renewal
- Permitted certain international bank offices licensed by the OFR to maintain required assets in an insured bank located anywhere in the United States, not just those banks that are located in Florida
- Updated 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 became effective July 1, 2022.

Special Session 2022–D (May 2022)

CS/SB 2-D – Property Insurance

The bill made the following changes regarding property insurance:

- **Reinsurance to Assist Policyholders (RAP) Program** – Created the RAP Program within the State Board of Administration to authorize $2 billion of reinsurance coverage to qualified property insurers at no cost to the insurers; the participating insurers must reduce rates to policyholders as a result of this reinsurance coverage.
- **My Safe Florida Home (MSFH)** – Appropriated $150 million to the MSFH Program to provide hurricane mitigation inspections and grants for retrofitting single-family homes that meet certain criteria.
- **Roof Damage Coverage and Claims** – Prohibited an insurer from refusing to write or renew policies for homes with roofs that are less than 15 years old solely because of the roof's age; for a roof that is at least 15 years old, required insurers to allow homeowners to have a roof inspection before requiring the replacement of a roof as a condition of issuing a policy; prohibited an insurer from refusing to issue or renew a homeowner's insurance policy solely based on roof age if an inspection shows 5 years or more of useful life left on the roof; allowed an insurer to offer an optional roof deductible if it meets certain criteria; prohibited contractors from making written or electronic communications that encourage or induce a consumer to contact a contractor or public adjuster for the purposes of making a property insurance claim for roof damage unless the communication provides certain notices to the policyholder.
- **Bad Faith** – Established that a policyholder may not prevail in a property insurance bad faith suit unless he or she establishes that the property insurer breached the insurance contract.
- **Insurer Annual Statement** – Directed the Office of Insurance Regulation (OIR) to make statewide data detailing the number of policies, amount of premium, number of cancellations, and other data for each property insurer publicly available on a statewide basis; established that such information is not a trade secret.
- **Claims Investigation** – Required property insurers to notify the policyholder that an insurer must send a copy of any detailed estimate of the amount of loss generated by an insurer's adjuster within 7 days of a request by the insured; required insurers to provide a reasonable written explanation to the policyholders of the basis for the payment, denial, or partial denial of a claim, if the payment is less than the detailed estimate; if an insurer wants to inspect non-hurricane damage in person, the insurer must send an adjuster within 45 days of the claim.
- **Assignment Agreements (AOB)** – Revised the definition of AOB to include AOBs executed by a party that inspects property; clarified that public adjuster fees are not an AOB; also clarified requirements regarding the notice of intent to litigate that must be served before filing a lawsuit regarding a claim where the policyholder has signed an AOB.
- **Attorney Fees** – Limited the application of contingency risk multipliers in property insurance litigation by only allowing them to be awarded in rare and exceptional circumstances; eliminated attorney fee awards in litigation involving a property insurance claim where the policyholder signed an AOB; allowed an insurer to recover attorney fees and costs associated with securing the dismissal of a lawsuit when a

first-party claimant's lawsuit is dismissed for failure to provide a notice of intent to litigate; eliminated the transfer or assignment of the right to receive attorney fees in property insurance litigation.

- **Property Insurance Stability Unit (Unit)** – Created the Unit within OIR to increase regulatory oversight for property insurers; required an investigation when consumer complaints suggest a trend in the marketplace rather than an isolated incident by an insurer; required referrals to the Unit if certain provisions of the Insurance Code are triggered.
- **Property Insurer Insolvency** – Required the Department of Financial Services to begin an analysis of a property insurer's insolvency immediately upon the commencement of a delinquency proceeding and prepare an initial report, followed by annual reports, and a final report at the end of the proceedings.

The bill had no impact on local government revenues or expenditures or state revenues. It had an impact on state expenditures related to the RAP and MSFH Programs. It will likely have a positive direct economic impact on the private sector.

The bill became effective upon becoming law, unless otherwise provided.

Special Session 2022–A (December 2022)

CS/SB 2-A – Property Insurance

The bill made changes regarding property insurance, including:

- **Attorney Fees** – eliminated one-way attorney fees in suits arising in residential or commercial property insurance.
- **Assignment of Benefits (AOB)** – eliminated a policyholder's ability to execute an AOB for all property insurance policies (but maintains an existing carve-out for seller-to-buyer AOB related to an ongoing insurance claim).
- **Bad Faith** – required a breach of contract before a policyholder can sue a property insurer for settlement-related bad faith; acceptance of an offer of judgment or the payment of an appraisal award, alone, is not sufficient to support a lawsuit.
- **Offer of Judgment** – made attorney fees available for the prevailing party in offers of judgment (proposals for settlement) in property insurance cases; allowed joint offers of judgment to be contingent on the acceptance of all joint offerees.
- **Florida Optional Reinsurance Assistance Program (FORA program)** – created a program that provides optional hurricane reinsurance that property insurers can purchase at near market rates. The FORA program is funded with $1 billion in general revenue for the 2023 year, and is supplemented by the premium insurers pay for coverage.
- **Notice of Claim** – reduced the time limit for providing notice of a loss to a property insurer from two years to one year for initial or reopened claims and from three years to 18 months for supplemental claims.
- **Claims Investigation and Prompt Payments** – changed the prompt pay statute to encourage property insurers to settle claims in a timely manner; required the Office of Insurance Regulation (OIR) to collect certain additional data.

- **Mandatory Binding Arbitration** – codified that companies, for a premium discount, may issue an optional endorsement with consent from the policyholder that requires participation in binding arbitration to settle a claim.
- **Notice to Policyholders** – required that a property insurer place the "Flood Coverage Not Included" statement on the policy declarations page rather than just "with the policy documents."
- **Office of Insurance Regulation (OIR)** – enhanced OIR's ability to do market conduct examinations of property insurers after a hurricane, including examinations of managing general agents; allowed OIR to discipline insurers for abuse of the appraisal process; added information regarding the use of appraisal to the list of information that a property insurer must include in its quarterly reports to OIR; allowed OIR to review property insurers' forms, withdraw approval, and suspend an insurer's ability to invoke appraisal for up to two years; required OIR to add the names of insurers who abuse the appraisal process to its Property Insurer Stability Unit biannual report and post those names to its website; at OIR's option, allowed additional time for agents to place policyholders during insolvencies.
- **Citizens Property Insurance Corporation (Citizens)** – for renewals and take-out offers (depopulation), established that if a renewal or take-out offer from an authorized insurer is within 20 percent of a policyholder's Citizens premium, including surcharges and assessments being levied, a policyholder is in ineligible to remain in Citizens; for new policies, established that the risk is ineligible for Citizens coverage if the admitted-market policy is within 20 percent of a policyholder's Citizens premium; required Citizens residential lines policyholders to obtain flood insurance as a condition of having coverage from Citizens by 2027; provided a different glidepath for the rates that Citizens charges non-primary residences so that those policies become actuarially sound more quickly; authorized Citizens to combine its three policyholder accounts into a single account upon eliminating all outstanding financing obligations to allow Citizens to use its entire surplus to pay claims.

The bill had no impact on local government revenues or expenditures or state revenues. It had an impact on state expenditures related to the FORA program and salary funds for OIR. It will likely have a positive direct economic impact on the private sector.

The bill became effective upon becoming law, unless otherwise provided.