

Insurance & Banking Subcommittee

Wednesday, March 5, 2025
1:30PM-3:30PM
Morris Hall (17 HOB)

Daniel Perez
Speaker

Bradford Yeager
Chair

The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

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Meeting Agenda

Wednesday, March 5, 2025
1:30pm – 3:30pm
Morris Hall (17 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- HB 315 Transportation Network Company and Driver Insurance Requirements by Fabricio
- HB 367 Home and Service Warranty Association Financial Requirements by Conerly
- HB 379 Securities by Barnaby
- HB 497 Health Coverage by Nonprofit Agricultural Organizations by Grow
- HB 655 Pet Insurance and Wellness Programs by Tuck
- HB 7003 OGSR/Financial Technology Sandbox Applications/OFR by Government Operations Subcommittee, Sapp

V. Consideration of the following proposed committee substitute(s):

- PCS for HB 147 -- Prohibited Practices in Consumer Debt Collection

VI. Closing Remarks

VII. Adjournment

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

HB 315

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 315 **TITLE:** Transportation Network Company and Driver Insurance Requirements **SPONSOR(S):** Fabricio	**COMPANION BILL:** None **LINKED BILLS:** None **RELATED BILLS:** SB 1206 (DiCeglie)

Committee References

Insurance & Banking ➤ Commerce

SUMMARY

Effect of the Bill:

The bill changes the insurance requirement that applies when a transportation network driver (i.e., Uber, Lyft, Sidecar, etc.) is engaged in a prearranged ride, but the rider is not in the vehicle, from $1 million, per accident for death, bodily injury, and property damage, to $50,000 for bodily injury or death to one person, $100,000 for bodily injury or death, per incident, and $25,000 for property damage. This is the same insurance obligation that applies when the TNC driver is logged on to the application but is waiting to be connected to a rider for a prearranged ride.

The insurance requirement for when a TNC driver is engaged in a prearranged ride and the rider is in the vehicle is unchanged at $1 million, per accident for death, bodily injury, and property damage.

Fiscal or Economic Impact:

TNC networks may pay reduced insurance premiums, which may possibly be passed onto consumers.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Current law requires at least $1 million insurance coverage for death, bodily injury, and property damage for TNC drivers engaged in any prearranged ride, regardless of whether a rider is occupying the vehicle. The bill reduces this requirement if the TNC driver is engaged in a prearranged ride with no rider occupying the vehicle, i.e., they have connected on the application for a ride and the TNC driver is en route to the rider's location.

When a TNC driver is logged into the application, but not connected to a rider at all, the minimum coverage requirement is $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage in addition to the standard personal injury protection and uninsured/underinsured coverages required for Florida drivers.[1][2]

For when the TNC driver is engaged with a rider for a prearranged ride, but the rider is not present in the vehicle, the bill changes the applicable coverage requirement from the current $1 million $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage.

The ultimate outcome of the bill is that the lower minimum coverage requirements currently applicable to TNC drivers logged onto the digital network but not engaged in a prearranged ride will now also apply to TNC drivers

[1] For purposes of comparison, s. 324.032, F.S., requires for-hire passenger transportation vehicles to carry limits of $125,000/$250,000 for bodily injury and $50,000 for property damage. Taxicabs, limousines, and other for-hire transportation vehicles are subject to s. 324.032, F.S.

[2] For the personal injury protection and uninsured/underinsured coverage requirements, *see infra* notes 4-5.

engaged in a prearranged ride with no rider. The minimum coverage required for TNC drivers engaged in a prearranged ride with a rider present remains unchanged.

The effective date of the bill is July 1, 2025.

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

TNC networks may pay reduced insurance premiums, which may possibly be passed onto consumers.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Transportation Network Companies (TNCs)

Transportation network companies (TNCs) are businesses that use a digital network to connect riders who provide prearranged rides. Examples of TNCs include Uber, Lyft, and Sidecar. Chapter 627.748, F.S., governs the operation of TNCs, including their insurance coverage requirements.

The law defines a "TNC vehicle" as a vehicle that is used by a TNC driver to offer or provide a prearranged ride and owned, leased, or otherwise authorized to be used by the TNC driver. A vehicle that is let or rented to another for consideration may be used as a TNC vehicle. The bill specifies that a taxicab, jitney, limousine, or for-hire vehicle is not a TNC vehicle.

Statute also defines the term "prearranged ride" as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network[3] controlled by a TNC, continuing while the TNC driver transports the requesting rider, and ending when the last requesting rider departs from the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail[4] service and does not include ridesharing,[5] carpool,[6] or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.

TNC Coverage Requirements

Current law prescribes different insurance requirements for two scenarios: when a driver is logged on but not engaged in a ride, and when a driver is engaged in a prearranged ride. The required coverage is significantly higher for TNC drivers engaged in a prearranged ride.

The following coverage requirements apply while a TNC driver is logged on to the digital network but not engaged in a prearranged ride under Section 627.748(7)(b), F.S.:

[3] "Digital network" is defined as any online-enabled technology application service, website, or system offered or used by a TNC which enables the prearrangement of riders with TNC drivers. F.S., Section 627.748(1)(a).
[4] "Street hail" is defined as an immediate arrangement on a street with a driver by a person using any method other than a digital network to seek immediate transportation.
[5] Section 341.031(9)(a), F.S., defines "ridesharing" as an arrangement between persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common destination. For purposes of ridesharing, employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall be deemed to terminate when the employee leaves the employer's place of employment, excluding areas not under the control of the employer. However, an employee shall be deemed to be within the course of employment when the employee is engaged in the performance of duties assigned or directed by the employer, or acting in the furtherance of the business of the employer, irrespective of location.
[6] Section 450.28(3), F.S., defines "carpool" as an arrangement made by the workers using one worker's own vehicle for transportation to and from work and for which the driver or owner of the vehicle is not paid by any third person other than the members of the carpool.

- Primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage.[7]
- Personal injury protection benefits that meet the minimum coverage amounts required under sections 627.730-627.7405, F.S.[8]
- Uninsured and underinsured vehicle coverage as required by section 627.727, F.S.[9]

Current law applies the following coverage requirements while a TNC driver is engaged in a prearranged ride under Section 627.748(7)(c), both when connected to a rider but the rider is not yet in the vehicle and when the rider is present:

- A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage.[10]
- Personal injury protection meeting the minimum coverage amounts required for a limousine under 627.730-627.7405, F.S.[11]
- Uninsured and underinsured vehicle coverage as required by section 627.727, F.S.[12]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Lloyd	Schenk
Commerce Committee				

[7] Section 627.748(7)(b), F.S.
[8] Sections 627.730-627.7405, F.S., are the "Florida Motor Vehicle No-Fault Law." The law requires Florida motor vehicle owners to maintain Personal Injury Protection (PIP) insurance coverage.
[9] Section 627.727, F.S., provides uninsured and underinsured vehicle coverage requirements for all motor vehicle liability policies issued in Florida..
[10] Section 627.748(7)(c), F.S.
[11] *Supra* note 8.
[12] *Supra* note 9.

A bill to be entitled

An act relating to transportation network company and driver insurance requirements; amending s. 627.748, F.S.; revising automobile insurance requirements for transportation network companies and drivers; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (7) of section 627.748, Florida Statutes, are amended to read:

627.748 Transportation network companies.—

(7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE REQUIREMENTS.—

(b) The following automobile insurance requirements apply while a participating TNC driver is logged on to the digital network but is not engaged in a prearranged ride or while a participating TNC driver is engaged in a prearranged ride but a rider does not occupy the TNC vehicle:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage;

b. Personal injury protection benefits that meet the

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

minimum coverage amounts required under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(c) The following automobile insurance requirements apply while a TNC driver is engaged in a prearranged ride and a rider occupies the TNC vehicle:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

Section 2. This act shall take effect July 1, 2025.

HB 367

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 367	**COMPANION BILL:** SB 282 (Truenow)
TITLE: Home and Service Warranty Association Financial Requirements	**LINKED BILLS:** None
SPONSOR(S): Conerly	**RELATED BILLS:** None

Committee References

Insurance & Banking ➤ Commerce

SUMMARY

Effect of the Bill:

The bill allows both home warranty associations and service warranty associations to satisfy financial requirements using one or more contractual liability insurance policies from multiple insurers rather than only permitting a single contractual liability policy. Additionally, the bill reduces the amount of information a service warranty association must file to document its eligibility for an exemption from reserve or contracting requirements.

Fiscal or Economic Impact:

None

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill allows home warranty associations and service warranty associations to satisfy financial requirements using one or more contractual liability insurance policies from multiple insurers. (Section 1 and 2).

Additionally, the bill allows a service warranty association to document its parent company's required net worth by submitting one of the following, rather than both:

- Audited financial statements, or
- SEC filings (or equivalent forms from a recognized stock exchange). (Section 2).

The effective date of the bill is January 1, 2026. (Section 3).

RELEVANT INFORMATION

SUBJECT OVERVIEW:

A warranty is an assurance that a manufacturer or seller makes about the condition of its product.[1] A warranty means that a manufacturer or seller will replace or repair the product under certain instances. A warranty can be either express or implied.[2]

[1] s. 681.102(22), F.S.
[2] 45 Fla. Jur 2d Sales and Exchanges of Goods § 156.

An express warranty is a verbal or written assurance for the product.[3] On the other hand, an implied warranty is an unstated assurance that the product is made for its intended purpose.[4] An implied warranty is in addition to an express warranty. However, an implied warranty may be negated or limited by an express warranty. There is no implied warranty if a seller states that the product is "as is", "with all faults", or similar language.[5]

The Office of Insurance Regulation (OIR)

Warranty associations and companies in Florida, including those associations selling home and service warranties, and those companies selling motor vehicle service agreements, are regulated by the Office of Insurance Regulation (OIR).[6] OIR regulates the insurance industry in Florida. OIR is responsible for the regulation of all activities in the state concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision.[7]

While warranties are not considered traditional insurance products, OIR regulates warranty associations and companies similarly to the way in which it regulates insurers.[8] Home and service warranty associations must be licensed by OIR[9] and must maintain certain minimum financial standards in order to do warranty business in Florida.[10]

Home Warranties

A home warranty is a contract or agreement between the homeowner and the issuing company, safeguarding the homeowner from expenses related to the repair or replacement of structural components or appliances in the home.[11] This protection extends to issues caused by normal wear and tear or defects in these components or appliances.[12]

Home warranty contracts or agreements can be drafted by a Home Warranty Association licensed under s. 634.303, F.S., or by an authorized insurance company permitted to offer coverage in this category.[13]

Service Warranty

A Service Warranty is a warranty, guarantee, extended warranty, or maintenance service contract lasting one year or more that covers the cost of repair, replacement, or maintenance of a consumer product in exchange for a premium payment.[14]

A service warranty contract may be issued by a licensed Service Warranty Association, as authorized under S. 634.403, F.S., or by an insurance company authorized to provide this type of coverage.[15]

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[3] "An express warranty is created by an affirmation of fact or promise made by the seller to the buyer that relates to the goods, by any description of the goods that is made part of the basis of the bargain, or by any sample or model that is made part of the basis of the bargain." S. 672.313, F.S.
[4] S. 672.314, F.S.
[5] S. 672.316, F.S.
[6] *See* ch. 634, F.S.
[7] Florida Office of Insurance Regulation, *Organization and Operation, https://floir.com/about-us/organization-and-operation#:~:text=The%20Florida%20um%20financing%2C%20and%20administrative (last visited Feb. 28, 2025). See also s. 624.308, F.S., and R. 69O, et seq., F.A.C.*]
[8] *See* ch. 634, F.S.
[9] Ss. 634.303 and 634.403, F.S. Neither the Florida Insurance Code nor this section grants permission for any home warranty association to conduct insurance business beyond what is specifically defined as home warranty or to participate in any other form of insurance. Any engagement in alternative insurance types requires explicit authorization through a certificate of authority issued by the office under the provisions of the Florida Insurance Code. S. 634.325, F.S.
[10] Ss. s. 634.3077, F.S. and 634.406, F.S.
[11] S. 634.301(2), F.S.
[12] *Id.*
[13] S. 634.303, F.S.
[14] S. 634.401, F.S.
[15] Consumer Services, *Service Warranty Overview*, https://myfloridacfo.com/division/consumers/understanding-insurance/service-warranty-overview, (Last visited Feb. 18, 2025).

Service warranty rates are not regulated or approved by the Florida Office of Insurance Regulation (OIR).[16] As required by s. 634.414, F.S., every service agreement sold in Florida must include a written disclosure informing consumers that the rate charged is not subject to OIR regulation.[17] This disclosure may be included in the service agreement itself or provided separately at the time of purchase.[18]

How Home and Service Warranty Associations Work in Florida

In Florida, companies that sell home warranties and service warranties are regulated under Ch. 634, and are commonly referred to as warranty associations. These businesses collect fees from customers in exchange for providing coverage and must comply with financial regulations to ensure they can pay claims when required.

To meet Florida's financial requirements, warranty associations have two options:

1. Maintain an Unearned Premium Reserve
    - A portion of the money collected from customers must be set aside in a reserve fund to cover future claims.[19]
2. Purchase Contractual Liability Insurance (CLI)
    - Instead of maintaining a reserve, a warranty association can purchase a CLI from an insurer.[20]
    - CLI guarantees that if the warranty association is unable to fulfill its obligations (due to insolvency, bankruptcy, or other financial issues), the insurer will cover the claims.[21]
    - CLI must be obtained from an insurer authorized to do business in Florida or approved by the OIR as financially capable of covering obligations.[22]

Financial Requirements for Home and Service Warranty Associations

To ensure warranty associations remain financially stable and capable of meeting their obligations to consumers, Florida law imposes additional financial requirements.

Premium-to-Net-Assets Ratio

- Warranty associations cannot have gross written premiums that exceed seven times their available assets (a 7-to-1 ratio).[23]
- If a company exceeds this limit, it must meet stricter financial conditions, such as maintaining higher net assets or purchasing CLI from an insurer with significant financial reserves.[24]

Net Worth Requirements

- Some warranty associations must maintain a minimum level of net assets to demonstrate financial stability.[25]
- Companies exceeding the 7-to-1 ratio must hold at least $750,000 in net assets and secure CLI from an insurer with a policyholder surplus of at least $100 million or $200 million, depending on circumstances.[26]

Exemptions for Large Companies

- Warranty associations (or their parent companies) with a net worth of at least $100 million may be exempt from maintaining an unearned premium reserve or purchasing CLI.[27]
- These companies must submit audited financial statements and regular financial reports to regulators to prove they meet the exemption criteria.[28]

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[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] S. 634.3077(1), F.S., and S. 634.406(3), F.S.
[20] S. 634.406(3), F.S.
[21] S. 634.406(3)(a), F.S.
[22] S. 634.406(3), F.S.
[23] S. 634.406(4), F.S.
[24] S. 634.406(4)(b), F.S.
[25] S. 634.406(6)(a), F.S.
[26] S. 634.406(6)(b), F.S.
[27] S. 634.406(7)(a), F.S.
[28] S. 634.406(7)(a)(1), F.S.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Lloyd	Herrera
Commerce Committee				

A bill to be entitled

An act relating to home and service warranty association financial requirements; amending s. 634.3077, F.S.; making technical changes; amending s. 634.406, F.S.; revising the circumstances under which certain service warranty associations are not required to establish unearned premium reserves or to maintain contractual liability insurance and are authorized to allow their premiums to exceed specified ratios; providing an effective date.

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

Section 1. Subsection (3) of section 634.3077, Florida Statutes, is amended to read:

634.3077 Financial requirements.—

(3) An association may not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer or insurers that hold a certificate of authority to do business within the state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy or

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

policies. For purposes of this subsection, the contractual liability policy or policies shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer or insurers will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer or insurers issuing the policy or policies shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy or policies may not be canceled or not renewed by the insurer or insurers or the association unless 60 days' written notice thereof has been given to the office by the insurer or insurers before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy or policies shall insure all home warranty contracts that were issued while the policy or policies were ~~was~~ in effect whether or not the premium has been remitted to the insurer or insurers.

Section 2. Subsections (3) and (4), paragraphs (b) and (c) of subsection (6), and paragraph (a) of subsection (7) of section 634.406, Florida Statutes, are amended to read:

634.406 Financial requirements.—

(3) An association will not be required to establish an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such policy or policies. The contractual liability insurance shall be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state. For the purposes of this subsection, the contractual liability policy or policies shall contain the following provisions:

(a) In the event that the service warranty association does not fulfill its obligation under contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer or insurers will pay losses and unearned premium refunds under such plans directly to the person making a claim under the contract.

(b) The insurer or insurers issuing the contractual liability policy or policies shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy or policies may not be canceled or not renewed by either the insurer or insurers or the association unless 60 days' written notice thereof has been given to the office by the insurer or insurers before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy or policies shall insure all service warranty contracts which were issued while the policy or policies were ~~was~~ in effect whether or not the premium has been remitted to the insurer or insurers.

(e) In the event the issuer or issuers of the contractual liability policy or policies are ~~is~~ fulfilling the service warranty covered by policy or policies and in the event the service warranty holder cancels the service warranty, it is the responsibility of the contractual liability policy issuer or issuers to effectuate a full refund of unearned premium to the consumer. This refund shall be subject to the cancellation fee provisions of s. 634.414. The salesperson or agent shall refund to the contractual liability policy issuer or issuers the unearned pro rata commission.

(f) An association may not utilize both the unearned premium reserve and contractual liability insurance simultaneously. However, an association shall be allowed to have contractual liability coverage on service warranties previously sold and sell new service warranties covered by the unearned premium reserve, and the converse of this shall also be allowed. An association must be able to distinguish how each individual service warranty is covered.

(4) No warrantor may allow its gross written premiums in force to exceed a 7-to-1 ratio to net assets; however, a company may exceed this requirement if:

(a) The company:

1.~~(a)~~ Holds licenses issued pursuant to the provisions of part I and this part;~~, and~~

2.~~(b)~~ Maintains net assets of at least $2.5 million;~~,~~ and

3.~~(c)~~ Utilizes contractual liability insurance which reimburses the service warranty association for 100 percent of its paid claims;~~,~~ and

(b)~~(d)~~ The insurer or insurers issuing the contractual liability insurance policy or policies maintain ~~maintains~~ a policyholder surplus of at least $100 million and are ~~is~~ rated "A" or higher by A.M. Best Company.

(6) An association that holds a license under this part may allow its premiums for service warranties written under this part to exceed the ratio to net assets limitations of this section if the association meets all of the following:

(b) Uses a contractual liability insurance policy or policies approved by the office that:

1. Reimburse ~~Reimburses~~ the service warranty association for 100 percent of their ~~its~~ claims liability and are ~~is~~ issued by an insurer or insurers that maintain ~~maintains~~ a policyholder surplus of at least $100 million; or

2. Comply ~~Complies~~ with subsection (3) and are ~~is~~ issued by an insurer or insurers that maintain ~~maintains~~ a policyholder surplus of at least $200 million.

(c) The insurer or insurers issuing the contractual

liability insurance policy or policies:

1. Are ~~Is~~ rated "A" or higher by A.M. Best Company or an equivalent rating by another national rating service acceptable to the office.

2. In conjunction with the warranty association's filing of the quarterly and annual reports, provide ~~provides~~, on a form prescribed by the commission, a statement certifying the gross written premiums in force reported by the warranty association and a statement that all of the warranty association's gross written premium in force is covered under the contractual liability policy or policies, regardless of whether it has been reported.

(7) Notwithstanding s. 634.401(13)(c), an association licensed under this part and holding no other license under part I or part II of this chapter is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with one of the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the office with one of the following:

1. A copy of the association's annual audited financial

statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be $100 million and a quarterly written certification to the office that such entity continues to maintain the net worth required under this paragraph.

2. The association's, or its parent corporation's, Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part.

Section 3. This act shall take effect July 1, 2025.

INSURANCE & BANKING SUBCOMMITTEE

HB 367 by Rep. Conerly
Home and Service Warranty Association Financial Requirements

AMENDMENT SUMMARY
March 4, 2025

Amendment 1 by Rep. Grow (Line 138): The amendment adds a new provision requiring that contracts covering accidental damage from handling must be backed by contractual liability insurance, unless issued by an association exempt from the applicable financial requirements.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Conerly offered the following:

Amendment

Remove lines 138-172 and insert:

(7) An association licensed under this part and holding no other license under part I or part II of this chapter is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum

net worth of at least $100 million and provides the office with one of the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be $100 million and a quarterly written certification to the office that such entity continues to maintain the net worth required under this paragraph.

2. The association's, or its parent corporation's, Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part.

Section 3. Subsection (5) is added to section 634.414, Florida Statutes, to read:

634.414 Forms; required provisions.—

(5) All contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy referred to in s. 634.406(3), unless issued by an association not required to establish an unearned premium reserve or maintain contractual liability insurance under the provisions of s. 634.406(7).

HB 379

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 379	**COMPANION BILL:** SB 988 (Truenow)
TITLE: Securities	**LINKED BILLS:** None
SPONSOR(S): Barnaby	**RELATED BILLS:** None

Committee References

Insurance & Banking ➤ Commerce

SUMMARY

Effect of the Bill:

The Florida Securities and Investor Protection Act (the Act) governs the registration and examination of firms, branches, and individuals offering investment services in the state. The Office of Financial Regulation Division of Securities (OFR) is responsible for administering and enforcing compliance with the Act.

The bill makes many changes throughout the Act. In general, the bill:

- Expands the list of securities transactions that are exempt from registration;
- Requires the Financial Services Commission to consider certain factors when designating a foreign securities exchange or foreign securities market by rule;
- Amends the Florida Invest Local Exemption to require an issuer to file a written consent to service of process with OFR prior to commencing an offer;
- Removes the requirement for OFR to find that an issuer's enterprise or business is not based on unsound business principles in order to approve the issuer's application for registration;
- Limits the application of the Act's disqualification provision as it relates to S.E.C. Rule 506(d);
- Specifies certain persons that must submit fingerprints to the Department of Law Enforcement; and
- Clarifies certain eligibility and application requirements for persons seeking payment from the Securities Guaranty Fund.

Fiscal or Economic Impact:

The bill has an indeterminate impact on the private sector and an indeterminate impact on state government.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill makes many changes throughout the Florida Securities and Investor Protection Act (Act), which is codified in chapter 517, F.S.

Definitions

The bill creates definitions for the following terms, as such terms are used in the Act:

- "Branch manager" means a natural person who administers or supervises the affairs or operations of a branch office.

- "Corporation" has the same meaning as the terms "corporation," "domestic corporation," and "foreign corporation" are defined under the Florida Business Corporation Act.[1]
- "Director" means a person appointed or elected to sit on a board that manages the affairs of a corporation or other organization by electing or exercising control over its officers.
- "Limited liability company" has the same meaning as the terms "limited liability company" or "foreign limited liability company" are defined under the Florida Revised Limited Liability Company Act.[2]
- "Limited liability company manager" or "limited liability managing member" means a person who is responsible alone or in concert with others for performing the management functions of a limited liability company.
- "Trust" has the same meaning as defined under the Florida Probate Code.[3] (Section 1.)

The bill amends the definition of "intermediary" to mean a person that facilitates through its website the offer or sale of securities of an issuer with a principal place of business in this state. (Section 1.)

Exempt Transactions

The bill expands the list of securities transactions that are currently exempt from registration under the Act. Under the bill, the offer or sale of securities to the following individuals are exempt:

- A savings and loan association, building and loan association, cooperative bank, homestead association, or credit union, which is supervised and examined by a state or federal authority having supervision over any such institution.
- A federal covered adviser, investment adviser registered pursuant to the laws of a state, exempt reporting adviser or private fund adviser as those terms are defined in s. 517.12(23)(a)2. and 3., F.S.,[4] respectively, investment adviser relying on the exemption from registering with the Securities and Exchange Commission under s. 203(l) or (m) of the Investment Advisers Act of 1940, as amended, business development company as defined in s. 2(a)(48) of the Investment Company Act of 1940, as amended, or business development company as defined in s. 202(a)(22) of the Investment Advisers Act of 1940, as amended.
- A small business investment company licensed by the Small Business Administration under s. 301(c) of the Small Business Investment Act of 1958, as amended, or rural business investment company as defined in s. 384A of the Consolidated Farm and Rural Development Act.
- A plan established and maintained by a state, a political subdivision thereof, or any agency or instrumentality of a state or a political subdivision, for the benefit of its employees, if such plan has total assets in excess of $5 million, an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as described in s. 3(21)

[1] "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under chapter 607, F.S., the Florida Business Corporation Act. S. 607.01401(13), F.S. "Foreign corporation" means an entity incorporated or organized under laws other than the laws of Florida which would be a corporation for profit if incorporated under the laws of Florida. S. 607.01401(36), F.S.

[2] "Limited liability company," except in the phrase "foreign limited liability company," means an entity formed or existing under chapter 605, F.S., the Florida Revised Limited Liability Company Act, or an entity that becomes subject to chapter 605 pursuant to ss. 605.1001-605.1072, F.S. S. 605.0102(36), F.S. "Foreign limited liability company" means an unincorporated entity that was formed in a jurisdiction other than Florida and is denominated by that law as a limited liability company. S. 605.0102(26), F.S.

[3] "Trust" means an express trust, private or charitable, with additions to it, wherever and however created. It also includes a trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts; conservatorships; custodial arrangements pursuant to the Florida Uniform Transfers to Minors Act; business trusts providing for certificates to be issued to beneficiaries; common trust funds; land trusts under s. 689.071, F.S., except to the extent provided in s. 689.071(7), F.S.; trusts created by the form of the account or by the deposit agreement at a financial institution; voting trusts; security arrangements; liquidation trusts; trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; and any arrangement under which a person is nominee or escrowee for another. S. 731.201(38), F.S.

[4] The bill renumbers current subsection (22) in s. 517.12, F.S. to (23). Under s. 517.12(22)(a)2., "exempt reporting adviser" has the same meaning as in the Glossary of Terms to Form ADV, the uniform application for investment adviser registration, 17 C.F.R. s. 279.1. Under s. 517.12(22)(a)3., "private fund adviser" means an investment adviser who provides advice to solely one or more qualifying private funds.

of such act, which is a bank, savings and loan association, insurance company, or federal covered adviser, or if the employee benefit plan has total assets in excess of $5 million or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors. (Section 2.)

The bill also exempts the offer or sale of securities to the following entities:

- An organization described in s. 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts trust or similar business trust, partnership, or limited liability company, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5 million.
- A trust, with total assets in excess of $5 million, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Securities and Exchange Commission Rule 506(b)(2)(ii),[5] as amended.
- An entity of a type not listed above which owns investments as defined in Securities and Exchange Commission Rule 2a51-1(b),[6] as amended, in excess of $5 million and is not formed for the specific purpose of acquiring the securities offered.
- A family office as defined in Securities and Exchange Commission Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940,[7] as amended, provided that:
    - The family office has assets under management in excess of $5 million;
    - The family office is not formed for the specific purpose of acquiring the securities offered; and
    - The prospective investment of the family office is directed by a person who has knowledge and experience in financial and business matters that the family office is capable of evaluating the merits and risks of the prospective investment.
- An entity in which all of the equity owners are one of the types of entities described above or is a bank, trust company, savings institution, insurance company, dealer, investment company as defined in the Investment Company Act of 1940, as amended, pension or profit-sharing trust, or qualified institutional buyer, whether any of such entities is acting in its individual or fiduciary capacity. (Section 2.)

The bill amends the requirements for an issuer claiming the exemption identified in subsection (11) of the Florida statute that lists the Act's exempt transactions.[8] The bill requires that the issuer, within 15 days after the first sale in Florida, file with OFR an irrevocable written consent to service of civil process, similar to that provided in s. 517.101, F.S., in addition to the materials currently required to be filed with OFR under subsection (11) of such statute.[9] (Section 2.)

Foreign Securities Exchange

The bill clarifies that the conditions to claim the Act's exemption relating to foreign securities markets must be met at the time of the transaction that is the subject of the claimed exemption. (Section 2.)

The bill also removes the Act's designation of Canada, together with its provinces and territories, as a foreign jurisdiction, and also removes the Act's designation of the Toronto Stock Exchange, Inc., as a foreign securities exchange. Going forward, foreign securities markets and foreign securities exchanges will be designated by rule of the Financial Services Commission (Commission). (Section 2.)

Moreover, under the bill, the Commission must consider certain factors when designating a foreign securities exchange or foreign securities market under the Act. The factors to consider include the foreign securities market's or foreign security exchange's:

- Organization under foreign law.
- Association with a generally recognized community of dealers, financial institutions, or other professional intermediaries with an established operating history.
- Oversight by a governmental or self-regulatory body.

[5] 17 C.F.R. s. 230.506(b)(2)(ii).
[6] 17 C.F.R s. 270.2a51-1(b).
[7] 17 C.F.R. s. 275.202(a)(11)(G)-1
[8] *See* s. 517.061, F.S.
[9] The other materials to be filed include a notice of transaction and a copy of the general announcement of the sale. S. 517.061(11)(f), F.S.

- Oversight standards set by general law.
- Reporting of securities transactions on a regular basis to a governmental or self-regulatory body.
- A system for exchange of price quotations through common communications media.
- An organized clearance and settlement system.
- Listing in Securities and Exchange Commission Regulation S Rule 902, 17 C.F.R. s. 230.902, as amended. (Section 2.)

Florida Invest Local Exemption

The bill requires that an issuer making an offering under the Florida Invest Local Exemption must file with OFR, in addition to the disclosure statement required by the exemption, a notice of transaction on a form prescribed by Commission rule, and an irrevocable written consent to service of civil process, similar to that provided in s. 517.101, F.S. (Section 3.)

"Bad Actor" Disqualification

The bill limits the application of the Act's disqualification provision to only certain persons and entities subject to SEC Rule 506(d).[10] Under the bill, a registration exemption provided by the Act is not available to an issuer if, *at the time the issuer makes an offer for the sale of a security*, any of the following entities would be disqualified under SEC Rule 506(d):

- The issuer;
- A predecessor of the issuer;
- An affiliated issuer;
- A director, executive officer, or other officer of the issuer participating in the offering;
- A general partner or managing member of the issuer;
- A beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power; or
- A promoter connected with the issuer in any capacity at the time of the sale. (Section 5.)

For the avoidance of doubt, the bill clarifies that the disqualification under SEC Rule 506(d) does not apply to any other person or entity listed in such Rule other than those expressly listed in the bill. (Section 5.)

Registration Requirements

The bill eliminates the requirement that OFR find, in order to approve a security for registration under the Act, that the enterprise or business of the security's issuer is not based upon unsound business principles. The bill does not remove any of the other findings that OFR must make in order to register a security under the Act. (Section 7.)

Requirements to Submit Fingerprints

The bill significantly revises the Act's current requirements for submitting fingerprints to the Department of Law Enforcement (DLE). Under the bill, the following persons must submit a full set of fingerprints to DLE or to a vendor, entity, or agency authorized under s. 943.053(13), F.S., for live-scan processing in accordance with rules adopted by the Commission:

- A natural person filing with OFR an application for registration as an associated person or intermediary;
- A natural person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or chief compliance officer for an applicant that is a dealer, investment adviser, or intermediary;
- A natural person who is a director of an applicant that is a dealer, investment adviser, or intermediary.
- A natural person who is a trustee of a trust that owns 5 percent or more of a class of a voting security of an applicant that is a dealer, investment adviser, or intermediary, or that has the right to receive upon dissolution, or has contributed, 5 percent or more of the capital of an applicant that is a dealer, investment adviser, or intermediary.
- A natural person who is a direct owner of an applicant that is a dealer, investment adviser, or intermediary.
- Each natural person who is a shareholder of a corporation that is a direct owner of an applicant that is a dealer, investment adviser, or intermediary, who beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of a class of a voting security of such corporation. For

[10] 17 C.F.R. s. 230.506(d).

purposes of the requirements for these natural persons, a shareholder beneficially owns the securities if the securities are:
    - Owned by the shareholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law sharing the same residence; or
    - Securities that the shareholder has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the securities.
- Each natural person who is a general partner of, and each natural person who is a limited partner or special partner of, a partnership that is a direct owner of an applicant that is a dealer, investment adviser, or intermediary, who has the right to receive upon dissolution, or has contributed, 25 percent or more of such partnership's capital.
- Each natural person who is a member of a limited liability company that is an applicant that is a dealer, investment adviser, or intermediary, who has the right to receive upon dissolution, or has contributed, 25 percent or more of such limited liability company's capital, and, if such limited liability company is managed by elected managers, each elected manager. (Section 8.)

For purposes of the bill's requirements relating to fingerprinting for the above individuals, the term "direct owner" means:

- A shareholder who owns 5 percent or more of a class of voting securities of an applicant that is a dealer, investment adviser, or intermediary, and includes any person who owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5 percent or more of a class of a voting security of the applicant. For purposes of this language, a person beneficially owns the securities if the securities are:
    - Owned by the shareholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law sharing the same residence; or
    - Securities that the shareholder has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the securities.
- Each general partner and each limited partner or special partner of an applicant that is a dealer, investment adviser, or intermediary, and who has the right to receive upon dissolution, or has contributed, 5 percent or more of the capital of a dealer or investment adviser applicant.
- A member who has the right to receive upon dissolution, or has contributed, 5 percent or more of the capital of an applicant that is a dealer, investment adviser, or intermediary, and all elected managers of an applicant that is a dealer, investment adviser, or intermediary. (Section 8.)

Under the bill, a vendor, entity, or agency authorized under s. 943.053(13), F.S., to submit fingerprints electronically to the DLE must submit the fingerprints to DLE for state processing, and DLE must then forward the fingerprints to the Federal Bureau of Investigation (FBI) for national processing. The bill requires that the fees for state and federal fingerprint processing must be borne by the person subject to the criminal history record check. (Section 8.)

The bill requires OFR to review the results of the state and federal criminal history record checks and determine whether the applicant is disqualified from registration. Under the bill, the Commission may waive by rule the bill's requirement that the persons listed in the bill submit fingerprints or the bill's requirement that such fingerprints be processed by DLE or the FBI. (Section 8.)

Exemption from Registration for Certain M&A Brokers

The bill essentially adopts the changes adopted by the North American Securities Administrators Association (NASAA) in May of 2024 to the NASAA's Model Rule Exempting Certain Merger & Acquisition Brokers (M&A Brokers) from Registration (Model Rule). Specifically, the bill adopts the Model Rule's definition of "business combination related shell company," which defines the term as a shell company that is formed by an entity that is not a shell company solely for the purpose of:

- Changing the corporate domicile of the entity solely within the United States; or
- Completing a business combination transaction, as defined in 17 C.F.R. s. 230.165(f), among one or more entities other than the company itself, none of which is a shell company. (Section 8.)

The bill requires that an M&A broker, for purposes of the Act's exemption, must receive additional written assurances, prior to the completion of a securities transaction, from any person that, after the transaction is completed, will be active in the management of the eligible privately held company or the business conducted with the assets of such company. (Section 8.)

The bill also provides that an M&A broker engaged in a transaction exempt under s. 517.061(7) is exempt from registration unless the M&A broker:

- Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction;
- Engages on behalf of an issuer in a public offering of any class of securities which is registered, or which is required to be registered, with the SEC under the Securities Exchange Act of 1934, or with OFR under s. 517.07; or for which the issuer files, or is required to file, periodic information, documents, and reports under s. 15(d) of the Securities Exchange Act of 1934;
- Engages on behalf of any party in a transaction involving a shell company, other than a business combination related shell company;
- Directly, or indirectly through any of its affiliates, provides financing related to the transfer of ownership of an eligible privately held company;
- Assists any party to obtain financing from an unaffiliated third party without:
    - Complying with all other applicable laws in connection with such assistance; and
    - Disclosing any compensation in writing to the party;
- Represents both the buyer and the seller in the same transaction without providing clear written disclosure as to the parties the broker represents and obtaining written consent from both parties to the joint representation;
- Facilitates a transaction with a group of buyers formed with the assistance of the M&A broker to acquire the eligible privately held company;
- Engages in a transaction involving the transfer of ownership of an eligible privately held company to a passive buyer or group of passive buyers;
- Binds a party to a transfer of ownership of an eligible privately held company; or
- Is subject to, or an officer, director, member, manager, partner, or employee of the broker is subject to, the certain disciplinary actions. (Section 8.)

Securities Guaranty Fund

The bill creates a definition for the term "restitution order," as such term is used in the Act's provisions relating to the Securities Guaranty Fund. The bill defines the term as a court order awarding a specified monetary amount to a named aggrieved party for a violation of ss. 517.07, or 517.301, F.S., to be paid by a named violator. (Section 9.)

The bill revises the conditions that a person must meet to be eligible for payment from the Securities Guaranty Fund to cover instances involving restitution orders. The bill also revises the minimum information that is required to be included on an application for payment from the Securities Guaranty Fund to cover instances involving restitution orders. (Section 9.)

RULEMAKING:

The bill removes the Act's designation of specific foreign securities exchanges and foreign securities markets and, in its place, requires the Commission to designate such foreign exchanges and markets by rule and requires the Commission to consider certain factors when making such designation. The bill also allows the Commission to modify the dollar figures for the eligibility of a privately held company, for purposes of the Act's exemption related to merger and acquisition brokers, by rule.

New rules will need to be adopted to implement the above-referenced changes made by the bill.[11]

[11] *Supra*, note 54, at p. 11.

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The revenue collected for the state portion of a state and national criminal history record check is $24, which goes into the Department of Law Enforcement's Operating Trust Fund.[12] The impact of the bill's provisions relating to the Act's fingerprinting requirements is unknown at this time.[13]

PRIVATE SECTOR:

The bill has a minimal positive impact on the private sector, as the bill modernizes Florida's securities laws to align with recent developments in federal securities laws and model securities laws for states.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Federal Securities Laws

There are several major federal securities laws that govern securities offerings in the United States. The Securities Exchange Act of 1933 (the 1933 Act) generally requires that investors receive financial and other significant information concerning securities being offered for public sale, and prohibits deceit, misrepresentations, and other fraud in the sale of securities.[14]

With the Securities Exchange Act of 1934 (1934 Act), Congress created the Securities and Exchange Commission (SEC).[15] The SEC's authority under the 1934 Act includes, but is not limited to, the power to register, regulate, and oversee brokerage firms, transfer agents, clearing agencies, and the nation's securities self-regulatory organizations (SROs).[16] The various securities exchanges, such as the New York Stock Exchange, the NASDAQ Stock Market, and the Chicago Board of Options are SROs.[17] The Financial Industry Regulatory Authority (FINRA) is also an SRO.[18]

Other federal securities laws include the Trust Indenture Act of 1939, Investment Company Act of 1940, Investment Advisers Act of 1940, Sarbanes-Oxley Act of 2002, Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and Jumpstart Our Business Startups Act of 2012.[19]

Florida's Securities Laws

In addition to the federal securities laws, every state has its own set of securities laws, which are commonly referred to as "Blue Sky Laws."[20] Like the federal securities laws, Blue Sky Laws are designed to protect investors against fraudulent sales practices and activities.[21] Chapter 517, F.S., codifies the Florida Securities and Investor

[12] Florida Department of Law Enforcement, Agency Analysis of 2025 HB 379, p. 3 (Feb. 7, 2025).
[13] *Id.*
[14] U.S. Securities and Exchange Commission, *Statutes and Regulations*, https://www.sec.gov/rules-regulations/statutes-regulations#secact1933 (last visited Feb. 28, 2025).
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] For further information on the various federal securities laws, see https://www.sec.gov/rules-regulations/statutes-regulations#secact1933 (last visited Feb. 28, 2025).
[20] U.S. Securities and Exchange Commission, *Blue Sky Laws*, https://www.investor.gov/introduction-investing/investing-basics/glossary/blue-sky-laws (last visited Feb. 28, 2025).
[21] *Id.*

Protection Act (Act), which governs the registration and examination of firms, branches, and individuals offering investment services in the state.[22]

The Act prohibits dealers and associated persons from offering or selling securities in Florida unless registered with the Office of Financial Regulation (OFR) or specifically exempted.[23] Additionally, all securities in Florida must be registered with OFR unless they meet one of the exemptions under the Act,[24] or are federally covered (i.e., under the exclusive jurisdiction of the SEC).[25]

Failure to meet the precise requirements of the Act's exemptions can subject the violator to civil, criminal, and administrative liability for the sale of unregistered securities, which is a third-degree felony.[26] Civil remedies under the Act include rescission and damages.[27]

Office of Financial Regulation: Division of Securities

The Division of Securities (Division), housed within the Office of Financial Regulation (OFR),[28] is responsible for administering and enforcing compliance with the Act.[29] The Division carries out its duties through its two bureaus. The Bureau of Registration registers securities firms and their employees to conduct business in, to, or from the state.[30] The Bureau of Enforcement receives and processes consumer complaints regarding securities industry activities and participants, conducts examinations of securities firms and their employees, and develops enforcement actions brought by OFR for violations of the Act.[31]

As of June 30, 2023, the Division had total active registrants in the following areas:

- Dealers and investment adviser firms: 10,701
- Branch offices: 11,667
- Individual associated persons: 373,710
- Crowdfunding intermediaries: 2[32]

Exempt Transactions

Certain securities transactions are exempt from the registration requirements of the Act.[33] Other than one exception,[34] the exemptions are self-executing and do not require any filing with OFR before being claimed.[35]

Any person who claims an exemption bears the burden of proving they are entitled to the exemption in any proceeding brought under the Act.[36] Further, although the Act's registration requirements do not apply to transactions that are explicitly exempt, such transactions are subject to the Act's anti-fraud provisions.[37]

Foreign Securities Exchanges

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[22] *Id.*
[23] *See* s. 517.12, F.S.
[24] *See* ss. 517.051 and 517.061, F.S.
[25] S. 517.07, F.S. If a security is registered with the SEC, s. 517.082, F.S., requires the broker or issuer to notify OFR that the security is registered with the SEC.
[26] S. 517.302(1), F.S.
[27] S. 517.211, F.S.
[28] The Financial Services Commission, comprised of the Governor and the Cabinet, serves as OFR's agency head for purposes of rulemaking and appoints OFR's Commissioner, who serves as the agency head for purposes of final agency action for all areas within OFR's regulatory authority. S. 20.121(3), F.S.
[29] Office of Financial Regulation, *Long Range Program Plan*, Sep. 2023, at p. 22, http://floridafiscalportal.state.fl.us/Document.aspx?ID=28240&DocType=PDF (last visited Feb. 28, 2025).
[30] *Id.*
[31] *Id.*
[32] *Id.* Florida ranks third in the nation in the number of registered dealers, investment advisers, and their registered associated persons, and fourth in the number of registered branch offices.
[33] For a list of exempt transactions, *see* s. 517.061, F.S.
[34] S. 517.061(11), F.S., is the exception.
[35] S. 517.061, F.S.
[36] *Id.*
[37] *See* s. 517.301, F.S.

The Act's registration requirements do not apply to a nonissuer transaction in an outstanding security effected by or through a dealer registered or exempt from registration under the Act if all of the following are true:

- The issuer is a reporting issuer in a foreign jurisdiction identified by statute or by commission rule, and the issuer has been subject to continuous reporting requirements in such foreign jurisdiction for not less than 180 days before the transaction; and
- The security is listed on the securities exchange designated by statute or by commission rule, is a security of the same issuer which is of senior or substantially equal rank to the listed security, or is a warrant or right to purchase or subscribe to any such security.[38]

For purposes of this exemption, the Act designates Canada, together with its provinces and territories, as a foreign jurisdiction, and the Toronto Stock Exchange, Inc., as a securities exchange.[39] If, after an administrative hearing, OFR finds that revocation of a statutory designation is necessary or appropriate in furtherance of the public interest and for the protection of investors, OFR may revoke the designation of a securities exchange.[40]

Florida Invest Local Exemption

In 2024, the Florida Invest Local Exemption (FIL Exemption), based in part on Georgia's "Invest Georgia Exemption,"[41] was created under the Act.[42] The FIL Exemption exempts the offer and sale of securities from the Act's registration requirements when such securities are part of an intrastate offering that meets certain requirements.[43] An offering under the FIL exemption is limited to $500,000, and any one investor may not invest more than $10,000 unless the investor is accredited, a specified employee, or a 10% or more shareholder.[44]

Under the FIL Exemption, an offer or sale of security by an issuer is exempt from the Act's registration requirements if the following conditions are met:

- The issuer must be a for-profit business entity registered with the Department of State with its principal place of business in this state.[45]
- The issuer is not, before or as a result of the offering:
    - An investment company;
    - Subject to the reporting requirements of the 1934 Act;
    - A business entity with an undefined business plan, that lacks a business plan, that lacks a stated investment goal for the funds being raised, or that plans to engage in a merger or acquisition with an unspecified business entity; or
    - Disqualified pursuant to s. 517.0616, F.S.[46]
- Further, the transaction must meet the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the 1933 Act and SEC Rule 147 or SEC Rule 147A.[47]

An issuer making an offering under the FIL Exemption must file a notice of the offering and a copy of the disclosure statement with OFR, on a form prescribed by Commission rule, no less than 5 days before the offering commences.[48] If there are any material changes to the submitted information, the issuer must, within 3 days after such material change, file an amended notice with OFR.[49]

Disqualification of "Bad Actors" Under SEC Rule 506(d)

[38] S. 517.061(20), F.S.
[39] *Id.*
[40] *Id.*
[41] For more information on the Georgia Invest Local Exemption, *see* Georgia Secretary of State Securities Division, *Invest Georgia Exemption*, https://sos.ga.gov/sites/default/files/2023-05/IGE%20pamplet-web.pdf (last visited Mar. 1, 2025).
[42] *See* ch. 2024-168, Laws of Fla.
[43] *See* s. 517.0612, F.S.
[44] Ss. 517.0612(5), (6)(a), F.S.
[45] S. 517.0612(4), F.S.
[46] S. 517.0612(4)(a)-(d), F.S.
[47] S. 517.0612(3), F.S.
[48] S. 517.0612(10), F.S.
[49] *Id.*

A registration exemption provided by the Act is not available to an issuer if the issuer would be disqualified under SEC Rule 506(d)[50] at the time the issuer makes an offer for the sale of a security.[51] Under the SEC Rule 506(d) "bad actor" disqualification, an offering is disqualified from relying on the exemptions in Rule 506(b) and 506(c) of Regulation D if the issuer or any other person covered by Rule 506(d) has a relevant criminal conviction, regulatory or court order, or other disqualifying event.[52]

The persons covered by SEC Rule 506(d) includes:

- The issuer, including its predecessors and affiliated issuers;
- Directors, general partners, and managing members of the issuer;
- Executive officers of the issuer, and other officers of the issuers that participate in the offering;
- 20 percent beneficial owners of the issuer, calculated on the basis of total voting power;
- Promoters connected to the issuer;
- For pooled investment fund issuers, the fund's investment manager and its principals; and
- Persons compensated for soliciting investors, including their directors, general partners and managing members.[53]

In 2024, industry members expressed concern that the inclusion of current s. 517.061(9), F.S., in the Act's disqualification provision would prohibit certain transactions with institutional investors in Florida, including offerings pursuant to Rule 144A under the Securities Act of 1933.[54]

Registration Requirements

Under the Act, OFR must record the registration of a security in OFR's register of securities if, upon examination of an application, it finds that all of the following requirements are met:

- The application is complete;
- The fee to register[55] has been paid;
- The sale of the security would not be fraudulent and would not work or tend to work a fraud upon the purchaser;
- The terms of the sale of such securities would be fair, just, and equitable; and
- The enterprise or business of the issuer is not based upon unsound business principles.[56]

Requirements to Submit Fingerprints

The Act specifies certain information that the Commission or OFR may require for an applicant seeking registration,[57] and requires any direct owners, principals, or indirect owners of an applicant that are required to be reported on the application for registration to submit fingerprints for live-scan processing.[58]

In December 2023, the FBI communicated to OFR's liaison at DLE that the Act's fingerprinting requirements were insufficient for the FBI to continue providing fingerprint services to OFR.[59] The FBI cited Pub. L. 92-544, 86 Stat.

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[50] 17 C.F.R. § 230.506(d).
[51] S. 517.0616, F.S.
[52] U.S. Securities and Exchange Commission, *Disqualification of Felons and Other "Bad Actors" from Rule 506 Offerings and Related Disclosure Requirements*, Sep. 2013, https://www.sec.gov/resources-small-businesses/small-business-compliance-guides/disqualification-felons-other-bad-actors-rule-506-offerings-related-disclosure-requirements#P9_40 (last visited Mar. 1, 2025).
[53] *Id*. *See also* 17 C.F.R. § 230.506(d)(1).
[54] Office of Financial Regulation, Agency Analysis of 2025 House Bill 379, at p. 3 (Feb. 12, 2025).
[55] An issuer filing an application under the Act must, at the time of filing, pay OFR a nonreturnable fee of $1,000 per application for each offering that exceeds the amount provided in s. 3(b) of the Securities Act of 1933, as amended, or $200 per application for each offering that does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended. S. 517.081(8), F.S.
[56] S. 517.081(9)(a), F.S.
[57] *See* s. 517.12(6)(a)-(d), F.S.
[58] S. 517.12(6), F.S.
[59] *Supra*, note 54, at p. 5.

1115 (1972) and indicated the categories of individuals subject to the Act's fingerprinting requirements were unclear and overly broad and that additional definitions were needed.[60]

Exemption for Certain M&A Brokers from Registration

The Act provides an exemption from registration requirements for certain merger and acquisition (M&A) brokers.[61,62] The Act's exemption is based off of a model rule promulgated by the North American Securities Administrators Association's (NASAA).[63] The NASAA is a voluntary, international, association whose membership consists of 67 state, provincial, and territorial securities administrators.[64] Formed in 1919, NASAA is the oldest international organization devoted to investor protection.[65] NASAA advocates on behalf of state securities agencies in the United States that are responsible for capital formation and investor protection.[66] NASAA also coordinates training and education seminars for securities agency staff[67] and creates model rules for implementation amongst its members.[68]

NASAA adopted the NASAA Model Rule Exempting Certain M&A Brokers from Registration (Model Rule) in September of 2015.[69] The Model Rule was subsequently incorporated into the Act in July of 2016.[70] NASAA amended the Model Rule in May of 2024, to update the Model Rule in light of certain amendments that were made to subsection 15(b)(13) of the Securities and Exchange Act of 1934.[71]

Under the Act's exemption, prior to the completion of any securities transaction, an M&A broker must receive written assurances from the control person with the largest percentage of ownership for both the buyer and seller engaged in the transaction that, after the transaction is completed, will be a control person of an eligible privately held company.[72]

Currently, an M&A broker engaged in a transaction exempt from s. 517.061(7), F.S., is exempt from registration under the Act unless the M&A broker:

- Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction;
- Engages on behalf of an issuer in a public offering of any class of securities which is registered, or which is required to be registered, with the SEC under the Securities Exchange Act of 1934, or with OFR under s. 517.07; or for which the issuer files, or is required to file, periodic information, documents, and reports under s. 15(d) of the Securities Exchange Act of 1934;
- Engages on behalf of any party in a transaction involving a public shell company;
- Is subject to a suspension or revocation of registration under s. 15(b)(4) of the Securities Exchange Act of 1934;

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[60] *Id.*

[61] For purposes of this exemption, a broker is considered an M&A broker if he or she, or any person associated with him or her, engages in the business of effecting securities transactions solely in connection with the transfer of ownership of an eligible privately held company, regardless of whether the broker acts on behalf of a seller or buyer, through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the eligible privately held company. S. 517.12(21)(a)4., F.S.

[62] *See* s. 517.12(21), F.S. for the Act's exemption for M&A brokers.

[63] *See* North American Securities Administrators Association, *Model Rule Exempting Certain Merger & Acquisition Brokers From Registration*, https://www.nasaa.org/wp-content/uploads/2024/05/Model-Rule-Exempting-Certain-Merger-and-Acquisition-Brokers-From-Registration-_5-6-2024.pdf (last visited Mar. 1, 2025).

[64] NASAA, *Welcome to NASAA*, https://www.nasaa.org/about/ (last visited Mar. 1, 2025).

[65] *Id.*

[66] *Id*.

[67] *Id.*

[68] *See, e.g.,* NASAA, *NASAA Model Rule on Investment Adviser Representative Continuing Education (Model Rule 2002-411(h) or 1956-204(B)(6)-CE)*, https://www.nasaa.org/wp-content/uploads/2020/10/NASAA-IAR-CE-Model-Rule.pdf (last visited Mar. 1, 2025).

[69] *Supra* note 63, at p. 1.

[70] Supra note 54, at p. 6. *See also*, ch. 2016-111, Laws of Fla.

[71] *Supra* note 54, at p. 6.

[72] S. 517.12(21)(b), F.S.

- Is subject to a statutory disqualification described in s. 3(a)(39) of the Securities Exchange Act of 1934;
- Is subject to a disqualification under the SEC Rule 506(d); or
- Is subject to a final order described in s. 15(b)(4)(H) of the Securities Exchange Act of 1934.[73]

Securities Guaranty Fund

The Securities Guaranty Fund (Fund) was established for the purpose of providing monetary relief to victims of securities violations under the Act, specifically to those who are entitled to monetary damages or restitution and cannot recover the full amount of such monetary damages or restitution from the wrongdoer.[74] The Fund is funded by a percentage of revenues received as assessment fees by OFR.[75]

Under the Act, a person must meet the following conditions to be eligible for payment from the Fund:
- The person holds an unsatisfied final judgement in which a wrongdoer was found to have violated ss. 517.07 or 517.301, F.S.;
- The person has applied any amounts recovered from the judgment debtor or from any other source to the damages awarded by the court or arbitrator; and
- The person is a natural person who was a resident of Florida, or is a business entity that was domiciled in Florida, at the time of the violation giving rise to the claim.[76]

Additionally, the Act requires an eligible person, or receiver on behalf of an eligible person, seeking payment from the Fund to file a written application with OFR on a form that the Commission may prescribe by rule.[77] The application must be filed with OFR within one year after the date of the final judgement, the date on which the restitution order became ripe for execution, or the date of any appealable decision thereon.

The application for payment from the Fund must contain, at a minimum, the following information:
- The eligible person's and, if applicable, the receiver's full names, addresses, and contact information.
- The person ordered to pay restitution.
- If the eligible person is a business entity, the eligible person's type and place of organization and, as applicable, a copy, as amended, of its articles of incorporation, articles of organization, trust agreement, or partnership agreement.
- Any final judgment and a copy thereof.
- Any restitution order pursuant to s. 517.191(3), F.S., and a copy thereof.
- An affidavit from the eligible person stating either one of the following:
    - That the eligible person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the final judgment and, by the eligible person's search, that the eligible person has not discovered any property or assets.
    - That the eligible person has taken necessary action on the property and assets of the wrongdoers but the final judgment remains unsatisfied.
- If the application is filed by the receiver, an affidavit from the receiver stating the amount of restitution owed to the eligible person on whose behalf the claim is filed; the amount of any money, property, or assets paid to the eligible person on whose behalf the claim is filed by the person over whom the receiver is appointed; and the amount of any unsatisfied portion of any eligible person's order of restitution.
- The eligible person's residence or domicile at the time of the violation of ss. 517.07 or 517.301, F.S., which resulted in the eligible person's monetary damages.
- The amount of any unsatisfied portion of the eligible person's final judgment.

[73] S. 517.12(21)(c), F.S.
[74] S. 517.131(2), F.S.
[75] S. 517.131(1)(a), F.S. A maximum of 20% of all revenues received as assessment fees pursuant to ss. 517.12(9) and (10), F.S., for dealers and investment advisers (or s. 517.1201, F.S., for federal covered advisers), and a maximum of 10% of all revenues received as assessment fees pursuant to ss. 517.12(9) and (10), F.S., for associated persons must be part of the regular registration fee and must be transferred to the Fund.
[76] S. 517.131(3), F.S.
[77] S. 517.131(5), F.S.

- Whether an appeal or motion to vacate an arbitration award has been filed.[78]

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	CS/CS/HB 311	Barnaby	Brodeur	The 2024 legislation that made significant substantive changes throughout the Act.
2023	CS/CS/HB 253	Barnaby	Gruters	The 2023 legislation that made technical amendments throughout the Act.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Lloyd	Fletcher
Commerce Committee				

[78] *Id.*

A bill to be entitled

An act relating to securities; amending s. 517.021, F.S.; providing and revising definitions; amending s. 517.061, F.S.; revising the circumstances under which securities transactions are exempt from registration requirements; amending s. 517.0612, F.S.; revising the filing requirements for securities issuers under the Florida Invest Local Exemption law; amending s. 517.0614, F.S.; revising circumstances under which securities offers and sales are not subject to integration with other offerings; amending s. 517.0616, F.S.; revising the registration exemptions that are available to specified issuers under certain circumstances; providing applicability of certain disqualification provisions under a specified Securities and Exchange Commission rule; amending s. 517.075, F.S.; making a technical change; amending s. 517.081, F.S.; revising the requirements for securities registration applications; amending s. 517.12, F.S.; revising the list of persons who must submit fingerprints for live-scan processing for registration applications; providing fees for fingerprint processing; providing and revising definitions; revising the written assurances requirements that merger and acquisition brokers must

receive from certain control persons under specified circumstances; revising the circumstances under which merger and acquisition brokers are not exempt from specified securities registration; amending s. 517.131, F.S.; providing a definition; revising the circumstances under which a person is eligible for payment from the Securities Guaranty Fund; revising the requirements for applications for payment from the fund; amending s. 517.301, F.S.; specifying a prohibition against certain misrepresentations in issuing and selling securities; amending ss. 517.211 and 517.315, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsections (6) through (9), (10), (11) through (17), (18) through (25), (26), and (27) of section 517.021, Florida Statutes, are renumbered as subsections (7) through (10), (12), (14) through (20), (23) through (30), (32), and (33), respectively, present subsections (11) and (15) are amended, and new subsections (6), (11), (13), (21), (22), and (31) are added to that section, to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the

following respective meanings:

(6) "Branch manager" means a natural person who administers or supervises the affairs or operations of a branch office.

(11) "Corporation" has the same meaning as "corporation" or "domestic corporation" in s. 607.01401 or "foreign corporation" in s. 607.01401.

(13) "Director" means a person appointed or elected to sit on a board that manages the affairs of a corporation or other organization by electing or exercising control over its officers.

(14) ~~(11)~~ "Federal covered adviser" means a person that is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940, as amended. The term does not include any person that is excluded from the definition of investment adviser under subparagraphs (19)(b)1.-7. ~~(16)(b)1.-7.~~ and 9.

(18) ~~(15)~~ "Intermediary" means a ~~natural~~ person that ~~residing in this state or a corporation, trust, partnership, limited liability company, association, or other legal entity registered with the Secretary of State to do business in this state, which~~ facilitates through its website the offer or sale of securities of an issuer with a principal place of business in this state.

(21) "Limited liability company" has the same meaning as

"limited liability company" or "foreign limited liability company," as those terms are defined in s. 605.0102.

(22) "Limited liability company manager" or "limited liability managing member" means a person who is responsible alone or in concert with others for performing the management functions of a limited liability company.

(31) "Trust" has the same meaning as in s. 731.201.

Section 2. Subsections (7) and (9), paragraph (f) of subsection (11), and subsections (18), (19), and (20) of section 517.061, Florida Statutes, are amended to read:

517.061 Exempt transactions.—Except as otherwise provided in subsection (11), the exemptions provided herein from the registration requirements of s. 517.07 are self-executing and do not require any filing with the office before being claimed. Any person who claims entitlement to an exemption under this section bears the burden of proving such entitlement in any proceeding brought under this chapter. The registration provisions of s. 517.07 do not apply to any of the following transactions; however, such transactions are subject to s. 517.301:

(7) The offer or sale of securities, solely in connection with the transfer of ownership of an eligible privately held company, through a merger and acquisition broker in accordance with s. 517.12(22) ~~s. 517.12(21)~~.

(9) The offer or sale of securities to:

(a) A bank, trust company, savings institution, insurance

company, dealer, investment company as defined in the Investment Company Act of 1940, 15 U.S.C. s. 80a-3, as amended, pension or profit-sharing trust, or qualified institutional buyer, whether any of such entities is acting in its individual or fiduciary capacity.

(b) A savings and loan association, building and loan association, cooperative bank, homestead association, or credit union, which is supervised and examined by a state or federal authority having supervision over any such institution.

(c) A federal covered adviser, investment adviser registered pursuant to the laws of a state, exempt reporting adviser or private fund adviser as those terms are defined in s. 517.12(23)(a)2. and 3., respectively, investment adviser relying on the exemption from registering with the Securities and Exchange Commission under s. 203(l) or (m) of the Investment Advisers Act of 1940, as amended, business development company as defined in s. 2(a)(48) of the Investment Company Act of 1940, as amended, or business development company as defined in s. 202(a)(22) of the Investment Advisers Act of 1940, as amended.

(d) A small business investment company licensed by the Small Business Administration under s. 301(c) of the Small Business Investment Act of 1958, as amended, or rural business investment company as defined in s. 384A of the Consolidated Farm and Rural Development Act.

(e) A plan established and maintained by a state, a

political subdivision thereof, or any agency or instrumentality of a state or a political subdivision, for the benefit of its employees, if such plan has total assets in excess of $5 million, an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as described in s. 3(21) of such act, which is a bank, savings and loan association, insurance company, or federal covered adviser, or if the employee benefit plan has total assets in excess of $5 million or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors.

(f) An organization described in s. 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts trust or similar business trust, partnership, or limited liability company, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5 million.

(g) A trust, with total assets in excess of $5 million, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Securities and Exchange Commission Rule 506(b)(2)(ii), 17 C.F.R. s. 230.506(b)(2)(ii), as amended.

(h) An entity of a type not listed in paragraphs (a)-(g) or paragraph (j) which owns investments as defined in Securities and Exchange Commission Rule 2a51-1(b), 17 C.F.R s. 270.2a51-1(b), as amended, in excess of $5 million and is not formed for

the specific purpose of acquiring the securities offered.

(i) A family office as defined in Securities and Exchange Commission Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940, 17 C.F.R. s. 275.202(a)(11)(G)-1, as amended, provided that:

1. The family office has assets under management in excess of $5 million;

2. The family office is not formed for the specific purpose of acquiring the securities offered; and

3. The prospective investment of the family office is directed by a person who has knowledge and experience in financial and business matters that the family office is capable of evaluating the merits and risks of the prospective investment.

(j) An entity in which all of the equity owners are described in paragraphs (a)-(i).

(11) Offers or sales of securities by an issuer in a transaction that meets all of the following conditions:

(f) The issuer files with the office a notice of transaction on a form prescribed by commission rule, an irrevocable written~~, a~~ consent to service of civil process similar to that provided in s. 517.101, and a copy of the general announcement within 15 days after the first sale is made in this state. The commission may adopt by rule procedures for filing documents by electronic means.

(18) Any nonissuer transaction by a registered dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, as amended, in a security of a class that has been outstanding in the hands of the public for at least 90 days; provided that, at the time of the transaction, the following conditions in paragraphs (a), (b), and (c) and either paragraph (d) or paragraph (e) are met:

(a) The issuer of the security is actually engaged in business and is not in the organizational stage or in bankruptcy or receivership and is not a blank check, blind pool, or shell company whose primary plan of business is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person.

(b) The security is sold at a price reasonably related to the current market price of the security.

(c) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the dealer as an underwriter of the security.

(d) The security is listed in a nationally recognized securities manual designated by rule of the commission or a document filed with and publicly viewable through the Securities and Exchange Commission electronic data gathering and retrieval system and contains:

1. A description of the business and operations of the issuer.~~;~~

2. The names of the issuer's officers and directors, if any, or, in the case of an issuer not domiciled in the United States, the corporate equivalents of such persons in the issuer's country of domicile.~~;~~

3. An audited balance sheet of the issuer as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet.~~; and~~

4. An audited income statement for each of the issuer's immediately preceding 2 fiscal years, or for the period of existence of the issuer, if in existence for less than 2 years or, in the case of a reorganization or merger in which the parties to the reorganization or merger had such audited income statement, a pro forma income statement.

(e)1. The issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934, as amended;

2. The class of security is quoted, offered, purchased, or sold through an alternative trading system registered under Securities and Exchange Commission Regulation ATS, 17 C.F.R. s. 242.301, as amended, and the issuer of the security has made current information publicly available in accordance with Securities and Exchange Commission Rule 15c2-11, 17 C.F.R. s. 240.15c2-11, as amended;

3. The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940, as amended;

4. The issuer of the security has been engaged in continuous business, including predecessors, for at least 3 years; or

5. The issuer of the security has total assets of at least $2 million based on an audited balance sheet as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet.

(19) The offer or sale of any security effected by or through a person in compliance with s. 517.12(17) ~~s. 517.12(16)~~.

(20)(a) A nonissuer transaction in an outstanding security by or through a dealer registered or exempt from registration under this chapter, if, at the time of the transaction, all of the following conditions are met ~~true~~:

1.~~(a)~~ The issuer is a reporting issuer in a foreign jurisdiction ~~designated by this subsection or by commission rule~~, and the issuer has been subject to continuous reporting requirements in such foreign jurisdiction for not less than 180 days before the transaction.

2.~~(b)~~ The security is listed on a foreign securities exchange or foreign securities market ~~the securities exchange~~ designated ~~by this subsection or~~ by commission rule, is a

security of the same issuer which is of senior or substantially equal rank to the listed security, or is a warrant or right to purchase or subscribe to any such security.

(b) The commission shall consider all of the following in designating a foreign securities exchange or foreign securities market for purposes of this subsection:

1. Organization under foreign law.

2. Association with a generally recognized community of dealers, financial institutions, or other professional intermediaries with an established operating history.

3. Oversight by a governmental or self-regulatory body.

4. Oversight standards set by general law.

5. Reporting of securities transactions on a regular basis to a governmental or self-regulatory body.

6. A system for exchange of price quotations through common communications media.

7. An organized clearance and settlement system.

8. Listing in Securities and Exchange Commission Regulation S Rule 902, 17 C.F.R. s. 230.902, as amended.

~~For purposes of this subsection, Canada, together with its provinces and territories, is designated as a foreign jurisdiction, and Toronto Stock Exchange, Inc., is designated as a securities exchange.~~ If, after an administrative hearing in compliance with ss. 120.569 and 120.57, the office finds that

revocation is necessary or appropriate in furtherance of the public interest and for the protection of investors, it may revoke the designation of a foreign securities exchange or foreign securities market ~~under this subsection~~.

Section 3. Subsection (10) of section 517.0612, Florida Statutes, is amended to read:

517.0612 Florida Invest Local Exemption.—

(10) The issuer must file with the office a notice of transaction on a form prescribed by commission rule, an irrevocable written consent to service of civil process similar to that provided in s. 517.101, and a copy of the disclosure statement described in subsection (8) at least ~~the offering with the office, in writing or in electronic form, in a format prescribed by commission rule, no less than~~ 5 business days before the offering commences~~, along with the disclosure statement described in subsection (8)~~. If there are any material changes to the information previously submitted, the issuer must, within 3 business days after such material change, file an amended notice.

Section 4. Paragraph (b) of subsection (2) of section 517.0614, Florida Statutes, is amended to read:

517.0614 Integration of offerings.—

(2) The integration analysis required by subsection (1) is not required if any of the following nonexclusive safe harbors apply:

(b) Offers and sales made in compliance with any of the following provisions are not subject to integration with other offerings:

1. Section 517.051 or s. 517.061, except s. 517.061(10) or (11) ~~s. 517.061(9), (10), or (11)~~.

2. Section 517.0611 or s. 517.0612.

Section 5. Section 517.0616, Florida Statutes, is amended to read:

517.0616 Disqualification.—

(1) A registration exemption under s. 517.061(11) ~~s. 517.061(9), (10), and (11)~~, s. 517.0611, or s. 517.0612 is not available to an issuer if, at the time the issuer makes an offer for the sale of a security, the issuer; a predecessor of the issuer; an affiliated issuer; a director, executive officer, or other officer of the issuer participating in the offering; a general partner or managing member of the issuer; a beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power; or a promoter connected with the issuer in any capacity at the time of such sale ~~that~~ would be disqualified under Securities and Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d), as amended~~, at the time the issuer makes an offer for the sale of a security~~.

(2) The disqualification under Securities and Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d), as amended,

does not apply to any other person or entity listed in such rule.

Section 6. Subsection (2) of section 517.075, Florida Statutes, is amended to read:

517.075 Cuba, prospectus disclosure of doing business with, required.—

(2) Any disclosure required by subsection (1) must include:

(a) The name of such person, affiliate, or government with which the issuer does business and the nature of that business.~~;~~

(b) A statement that the information is accurate as of the date the securities were effective with the ~~United States~~ Securities and Exchange Commission or with the office, whichever date is later.~~; and~~

(c) A statement that current information concerning the issuer's business dealings with the government of Cuba or with any person or affiliate located in Cuba may be obtained from the office, which statement must include the address and phone number of the office.

Section 7. Subsection (5) and paragraph (a) of subsection (9) of section 517.081, Florida Statutes, are amended to read:

517.081 Registration procedure.—

(5) ~~All of~~ The following issuers are not eligible to submit a simplified offering circular:

(a) An issuer that is subject to any of the

disqualifications described in Securities and Exchange Commission Rule 262, 17 C.F.R. s. 230.262, as amended, or that has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this paragraph, an issuer includes an issuer's director, officer, general partner, manager or managing member, trustee, or a person owning at least 10 percent of the ownership interests of the issuer; a promoter or selling agent of the securities to be offered; or any officer, director, partner, or manager or managing member of such selling agent.

(b) An issuer that is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified business entity or entities.

(c) An issuer of offerings in which the specific business or properties cannot be described.

(d) An issuer that the office determines is ineligible because the simplified circular does not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.

(9)(a) The office shall record the registration of a security in the register of securities if, upon examination of an application, it finds that all of the following requirements are met:

1. The application is complete.

2. The fee imposed in subsection (8) has been paid.

3. The sale of the security would not be fraudulent and would not work or tend to work a fraud upon the purchaser.

4. The terms of the sale of such securities would be fair, just, and equitable.

~~5. The enterprise or business of the issuer is not based upon unsound business principles.~~

Section 8. Subsections (7) through (22) of section 517.12, Florida Statutes, are renumbered as subsections (8) through (23), respectively, subsection (6), present subsection (10), paragraph (b) of present subsection (14), and present subsections (19), (20), and (21) are amended, and a new subsection (7) is added to that section, to read:

517.12 Registration of dealers, associated persons, intermediaries, and investment advisers.—

(6) The application must also contain such information as the commission or office may require about the applicant; any member, principal, or director of the applicant or any person having a similar status or performing similar functions; any person directly or indirectly controlling the applicant; or any employee of a dealer or of an investment adviser rendering investment advisory services. ~~Each applicant and any direct owners, principals, or indirect owners that are required to be reported on Form BD or Form ADV pursuant to subsection (14) shall submit fingerprints for live-scan processing in accordance~~

~~with rules adopted by the commission. The fingerprints may be submitted through a third-party vendor authorized by the Department of Law Enforcement to provide live-scan fingerprinting. The costs of fingerprint processing shall be borne by the person subject to the background check. The Department of Law Enforcement shall conduct a state criminal history background check, and a federal criminal history background check must be conducted through the Federal Bureau of Investigation. The office shall review the results of the state and federal criminal history background checks and determine whether the applicant meets licensure requirements. The commission may waive, by rule, the requirement that applicants, including any direct owners, principals, or indirect owners that are required to be reported on Form BD or Form ADV pursuant to subsection (14), submit fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation.~~ The commission or office may require information about any such applicant or person concerning such matters as:

(a) The applicant's or person's full name, and any other names by which the applicant or person may have been known, and the applicant's or person's age, social security number, photograph, qualifications, and educational and business history.

(b) Any injunction or administrative order by a state or

federal agency, national securities exchange, or national securities association involving a security or any aspect of a dealer's or investment adviser's regulated business and any injunction or administrative order by a state or federal agency regulating banking, insurance, finance, or small loan companies, real estate, mortgage brokers, or other related or similar industries, which injunctions or administrative orders relate to such person.

(c) The applicant's or person's conviction of, or plea of nolo contendere to, a criminal offense or the applicant's or person's commission of any acts which would be grounds for refusal of an application under s. 517.161.

(d) The names and addresses of other persons of whom the office may inquire as to the applicant's or person's character, reputation, and financial responsibility.

(7)(a)1. The following persons must submit a full set of fingerprints to the Department of Law Enforcement or to a vendor, entity, or agency authorized under s. 943.053(13) for live-scan processing in accordance with rules adopted by the commission.

a. A natural person filing with the office an application for registration as an associated person.

b. A natural person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or chief

compliance officer for a dealer or investment adviser applicant.

c. A natural person who is a director of a dealer or investment adviser applicant.

d. A natural person who is a trustee of a trust that owns 5 percent or more of a class of a voting security of a dealer or investment adviser applicant, or that has the right to receive upon dissolution, or has contributed, 5 percent or more of the capital of a dealer or investment adviser applicant.

e. A natural person who is a direct owner of a dealer or investment adviser applicant.

f. Each natural person who is a shareholder of a corporation that is a direct owner of a dealer or investment adviser applicant who beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of a class of a voting security of such corporation. For purposes of this sub-subparagraph, a shareholder beneficially owns any securities:

(I) Owned by the shareholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law sharing the same residence; or

(II) That the shareholder has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the securities.

g. Each natural person who is a general partner of, and

each natural person who is a limited partner or special partner of, a partnership that is a direct owner of a dealer or investment adviser applicant who has the right to receive upon dissolution, or has contributed, 25 percent or more of such partnership's capital.

h. Each natural person who is a member of a limited liability company that is a direct owner of a dealer or investment adviser applicant who has the right to receive upon dissolution, or has contributed, 25 percent or more of such limited liability company's capital, and, if such limited liability company is managed by elected managers, each elected manager.

2. For purposes of this paragraph, the term "direct owner" means:

a. A shareholder who owns 5 percent or more of a class of voting securities of a dealer or investment adviser applicant, and includes any person who owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5 percent or more of a class of a voting security of the dealer or investment adviser applicant. For purposes of this sub-subparagraph, a person beneficially owns any securities:

(I) Owned by the shareholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law sharing the same residence; or

(II) That the shareholder has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the securities.

b. Each general partner and each limited partner or special partner of a dealer or investment adviser applicant who has the right to receive upon dissolution, or has contributed, 5 percent or more of the capital of a dealer or investment adviser applicant.

c. A member who has the right to receive upon dissolution, or has contributed, 5 percent or more of the capital of a dealer or investment adviser applicant, and all elected managers of a dealer or investment adviser applicant.

(b) A vendor, entity, or agency authorized under s. 943.053(13) to submit fingerprints electronically to the Department of Law Enforcement shall submit the fingerprints to the department for state processing, and the department shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

(c) Fees for state and federal fingerprint processing shall be borne by the person subject to the criminal history record check. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e).

(d) The office shall review the results of the state and federal criminal history record checks and determine whether the applicant is disqualified from registration. The commission may

waive by rule the requirement that the persons listed in this subsection submit fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation.

(11)(a) ~~(10)(a)~~ If the office finds that the applicant has complied with the applicable registration provisions of this chapter and the rules made pursuant hereto, it shall register the applicant unless the applicant is otherwise disqualified for registration pursuant to law. The registration of each dealer, investment adviser, and associated person expires on December 31 of the year the registration became effective unless the registrant has renewed its registration on or before that date. Registration may be renewed by furnishing such information as the commission may require, together with payment of the fee required in paragraph (10)(a) ~~(9)(a)~~ for dealers, investment advisers, or associated persons and the payment of any amount lawfully due and owing to the office pursuant to any order of the office or pursuant to any agreement with the office. Any dealer, investment adviser, or associated person who has not renewed a registration by the time the current registration expires may request reinstatement of such registration by filing with the office, on or before January 31 of the year following the year of expiration, such information as may be required by the commission, together with payment of the fee required in paragraph (10)(a) ~~(9)(a)~~ for dealers, investment advisers, or

associated persons and a late fee equal to the amount of such fee. Any reinstatement of registration granted by the office during the month of January shall be deemed effective retroactive to January 1 of that year.

(b) The office shall waive the $50 assessment fee for an associated person required by paragraph (10)(a) ~~(9)(a)~~ for a registrant renewing his or her registration who:

1. Is an active duty member of the United States Armed Forces or the spouse of such member;

2. Is or was a member of the United States Armed Forces and served on active duty within the 2 years preceding the expiration date of the registration pursuant to paragraph (a). To qualify for the fee waiver, a registrant who is a former member of the United States Armed Forces who served on active duty within the 2 years preceding the expiration date of the registration must have received an honorable discharge upon separation or discharge from the United States Armed Forces; or

3. Is the surviving spouse of a member of the United States Armed Forces if the member was serving on active duty at the time of death and died within the 2 years preceding the surviving spouse's registration expiration date pursuant to paragraph (a).

A registrant seeking such fee waiver must submit proof, in a form prescribed by commission rule, that the registrant meets

one of the qualifications in this paragraph.

(15)~~(14)~~

(b) In lieu of filing with the office the applications specified in subsection (5), the fees required by subsection (10) ~~(9)~~, the renewals required by subsection (11) ~~(10)~~, and the termination notices required by subsection (12) ~~(11)~~, the commission may by rule establish procedures for the deposit of such fees and documents with the Central Registration Depository or the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, as developed under contract with the North American Securities Administrators Association, Inc.

(20)~~(19)~~ An intermediary may not engage in business in this state unless the intermediary is registered as a dealer or as an intermediary with the office pursuant to this section to facilitate the offer or sale of securities in accordance with s. 517.0611. An intermediary, in order to obtain registration, must file with the office a written application on a form prescribed by commission rule and pay a registration fee of $200. The fees under this subsection shall be deposited into the Regulatory Trust Fund of the office. The commission may establish by rule procedures for depositing fees and filing documents by electronic means if such procedures provide the office with the information and data required by this section. Each intermediary must also file an irrevocable written consent to service of

civil process, as provided in s. 517.101.

(a) The application must contain such information as the commission or office may require concerning:

1. The name of the applicant and address of its principal office and each office in this state.

2. The applicant's form and place of organization; and, if the applicant is:

a. A corporation, a copy of its articles of incorporation and amendments to the articles of incorporation;

b. A limited liability company, a copy of its articles of organization and amendments to the articles and a copy of the company's operating agreement as may be amended; or

c. A partnership, a copy of the partnership agreement.

3. The website address where securities of the issuer will be offered.

4. Contact information.

(b) The application must also contain such information as the commission may require by rule about the applicant; any member, principal, or director of the applicant or any person having a similar status or performing similar functions; or any persons directly or indirectly controlling the applicant. ~~Each applicant and any direct owners, principals, or indirect owners that are required to be reported on a form adopted by commission rule shall submit fingerprints for live-scan processing in accordance with rules adopted by the commission. The~~

~~fingerprints may be submitted through a third-party vendor authorized by the Department of Law Enforcement to provide live-scan fingerprinting. The costs of fingerprint processing shall be borne by the person subject to the background check. The Department of Law Enforcement shall conduct a state criminal history background check, and a federal criminal history background check must be conducted through the Federal Bureau of Investigation. The office shall review the results of the state and federal criminal history background checks and determine whether the applicant meets registration requirements. The commission may waive, by rule, the requirement that applicants, including any direct owners, principals, or indirect owners, which are required to be reported on a form adopted by commission rule, submit fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation.~~ The commission, by rule, or the office may require information about any applicant or person, including:

1. The applicant's or person's full name and any other names by which the applicant or person may have been known and the applicant's or person's age, social security number, photograph, qualifications, and educational and business history.

2. Any injunction or administrative order by a state or federal agency, national securities exchange, or national

securities association involving a security or any aspect of an intermediary's regulated business and any injunction or administrative order by a state or federal agency regulating banking, insurance, finance, real estate, mortgage brokers, or other related or similar industries, which relate to such person.

3. The applicant's or person's conviction of, or plea of nolo contendere to, a criminal offense or the applicant's or person's commission of any acts that would be grounds for refusal of an application under s. 517.161.

(c)1. The following natural persons must submit a full set of fingerprints to the Department of Law Enforcement or to a vendor, entity, or agency authorized under s. 943.053(13) for live-scan processing in accordance with rules adopted by the commission:

a. A person filing with the office an application for registration as an intermediary.

b. A person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or chief compliance officer for an intermediary applicant.

c. A person who is a member of the intermediary applicant's board of directors.

d. A person who is a trustee of a trust that owns 5 percent or more of a class of a voting security of the

intermediary applicant, or that has the right to receive upon dissolution or has contributed 5 percent or more of the intermediary applicant's capital.

e. A person who is a direct owner of an intermediary applicant.

f. Each person who is a shareholder of a corporation that is a direct owner of an intermediary applicant who beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of a class of a voting security of such corporation. For purposes of this sub-subparagraph, a shareholder beneficially owns any securities:

(I) Owned by the shareholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law sharing the same residence; or

(II) That the shareholder has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the securities.

g. Each person who is a general partner and each natural person who is a limited partner or special partner of a partnership that is a direct owner of an intermediary applicant who has the right to receive upon dissolution, or have contributed, 25 percent or more of such partnership's capital.

h. Each person who is a member of a limited liability company that is a direct owner of an intermediary applicant who

has the right to receive upon dissolution, or has contributed, 25 percent or more of such limited liability company's capital, and, if such limited liability company is managed by elected managers, each elected manager.

2. For purposes of this paragraph, the term "direct owner" means:

a. A shareholder who owns 5 percent or more of a class of voting securities of an intermediary applicant, and includes any person who owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5 percent or more of a class of a voting security of the intermediary applicant. For purposes of this sub-sub-subparagraph, a person beneficially owns any securities:

(I) Owned by the shareholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law sharing the same residence; or

(II) That the shareholder has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the securities.

b. Each general partner and each limited partner or special partner of an intermediary applicant who has the right to receive upon dissolution, or has contributed, 5 percent or more of the intermediary applicant's capital.

c. A member who has the right to receive upon dissolution,

or has contributed, 5 percent or more of the intermediary applicant's capital, and, if managed by elected managers, each elected manager.

(d) The vendor, entity, or agency authorized under s. 943.053(13) to submit fingerprints electronically to the Department of Law Enforcement shall submit the fingerprints to the department for state processing, and the department shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

(e) Fees for state and federal fingerprint processing shall be borne by the person subject to the criminal history record check. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e).

(f) The office shall review the results of the state and federal criminal history record checks and determine whether the applicant is disqualified from registration. The commission may waive by rule the requirement that applicants, including any persons listed in sub-subparagraphs (c)1.b.-g., submit fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation.

(g) ~~(e)~~ The application must be amended within 30 days if any information contained in the form becomes inaccurate for any reason.

(h) ~~(d)~~ An intermediary or persons affiliated with the

intermediary are not subject to any disqualification described in s. 517.1611 or Securities and Exchange Commission Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933, as amended. Each director, officer, manager or managing member, control person of the issuer, any person occupying a similar status or performing a similar function, and each person holding more than 20 percent of the ownership interests of the intermediary is subject to this requirement.

(i) ~~(e)~~ If the office finds that the applicant has complied with the applicable registration provisions of this chapter and the rules adopted thereunder, it shall register the applicant. The registration of each intermediary expires on December 31 of the year the registration became effective unless the registrant renews his or her registration on or before that date. Registration may be renewed by furnishing such information as the commission may require by rule, together with payment of a $200 fee and the payment of any amount due to the office pursuant to any order of the office or pursuant to any agreement with the office. An intermediary who has not renewed a registration by the time that the current registration expires may request reinstatement of such registration by filing with the office, on or before January 31 of the year following the year of expiration, such information as required by the commission, together with payment of the $200 fee and a late fee of $200. Any reinstatement of registration granted by the office

during the month of January is deemed effective retroactive to January 1 of that year.

(21)(20) The registration requirements of this section do not apply to any general lines insurance agent or life insurance agent licensed under chapter 626, with regard to the sale of a security as defined in s. 517.021(30)(g) ~~s. 517.021(25)(g)~~, if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

(22)(a)~~(21)(a)~~ As used in this subsection, the term:

1. "Broker" has the same meaning as "dealer" as defined in s. 517.021.

2. "Business combination related shell company" means a shell company that is formed by an entity that is not a shell company solely for the purpose of:

a. Changing the corporate domicile of the entity solely within the United States; or

b. Completing a business combination transaction, as defined in 17 C.F.R. s. 230.165(f), among one or more entities other than the company itself, none of which is a shell company.

3.~~2.~~ "Control person" means a person ~~an individual or entity~~ that possesses the power, directly or indirectly, to

direct the management or policies of a company through ownership of securities, by contract, or otherwise. A person is presumed to be a control person of a company if, upon completion of a transaction, the buyer or group of buyers ~~with respect to a particular company, the person~~:

~~a. Is a director, a general partner, a member, or a manager of a limited liability company, or is an officer who exercises executive responsibility or has a similar status or function;~~

a.~~b.~~ Has the power to vote 25 ~~20~~ percent or more of a class of voting securities or has the power to sell or direct the sale of 25 ~~20~~ percent or more of a class of voting securities; or

b.~~c.~~ In the case of a partnership or limited liability company, may receive upon dissolution, or has contributed, 25 ~~20~~ percent or more of the capital.

4.~~3.~~ "Eligible privately held company" means a privately held company that meets all of the following conditions:

a. The company does not have any class of securities which is registered, or which is required to be registered, with the ~~United States~~ Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., as amended, or with the office under s. 517.07, or for which the company files, or is required to file, summary and periodic information, documents, and reports under s. 15(d) of the

Securities Exchange Act of 1934, 15 U.S.C. s. 78o(d), as amended.

b. In the fiscal year immediately preceding the fiscal year during which the merger and acquisition broker begins to provide services for the securities transaction, the company, in accordance with its historical financial accounting records, has earnings before interest, taxes, depreciation, and amortization of less than $25 million or has gross revenues of less than $250 million. On July 1, 2021, and every 5 years thereafter, each dollar amount in this sub-subparagraph shall be adjusted by dividing the annual value of the Employment Cost Index for wages and salaries for private industry workers, or any successor index, as published by the Bureau of Labor Statistics, for the calendar year preceding the calendar year in which the adjustment is being made, by the annual value of such index or successor index for the calendar year ending December 31, 2020 ~~2012~~, and multiplying such dollar amount by the quotient obtained. Each dollar amount determined under this sub-subparagraph shall be rounded to the nearest multiple of $100,000. The commission may by rule modify the dollar figures if the commission determines that such a modification is necessary or appropriate in the public interest or for the protection of investors.

5.~~4.~~ "Merger and acquisition broker" means a ~~any~~ broker and any person associated with a broker engaged in the business

of effecting securities transactions solely in connection with the transfer of ownership of an eligible privately held company, regardless of whether the ~~that~~ broker acts on behalf of a seller or buyer, through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the eligible privately held company.

6.~~5.~~ "~~Public~~ Shell company" means a company that at the time of a transaction with an eligible privately held company:

~~a. Has any class of securities which is registered, or which is required to be registered, with the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., or with the office under s. 517.07, or for which the company files, or is required to file, summary and periodic information, documents, and reports under s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(d);~~

a.~~b.~~ Has nominal or no operations.~~; and~~

b.~~c.~~ Has nominal assets or no assets, assets consisting solely of cash and cash equivalents, or assets consisting of any amount of cash and cash equivalents and nominal other assets.

(b) Prior to the completion of any securities transaction described in s. 517.061(7), a merger and acquisition broker must receive written assurances from the control person with the largest percentage of ownership for both the buyer and seller

engaged in the transaction that:

1. After the transaction is completed, any person who acquires securities or assets of the eligible privately held company, acting alone or in concert, will be a control person of the eligible privately held company or will be a control person for the business conducted with the assets of the eligible privately held company.~~; and~~

2. After the transaction is completed, any person who acquires securities or assets of the eligible privately held company, acting alone or in concert, will be active in the management of the eligible privately held company or the business conducted with the assets of the eligible privately held company, and active in the management of the assets of the eligible privately held company, by engaging in acts and activities that include, but are not limited to, the following:

a. Electing executive officers.

b. Approving the annual budget.

c. Serving as an executive or other executive manager.

d. Carrying out such other activities as the commission may by rule determine to be in the public interest.

3.~~2.~~ If any person is offered securities in exchange for securities or assets of the eligible privately held company, such person will, before becoming legally bound to complete the transaction, receive or be given reasonable access to the most recent year-end financial statements of the issuer of the

securities offered in exchange. The most recent year-end financial statements shall be customarily prepared by the issuer's management in the normal course of operations. If the financial statements of the issuer are audited, reviewed, or compiled, the most recent year-end financial statements must include any related statement by the independent certified public accountant; a balance sheet dated not more than 120 days before the date of the exchange offer; and information pertaining to the management, business, results of operations for the period covered by the foregoing financial statements, and material loss contingencies of the issuer.

(c) A merger and acquisition broker engaged in a transaction exempt under s. 517.061(7) is exempt from registration under this section unless the merger and acquisition broker:

1. Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction;

2. Engages on behalf of an issuer in a public offering of any class of securities which is registered, or which is required to be registered, with the ~~United States~~ Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., as amended, or with the office under s. 517.07; or for which the issuer files, or is required to

file, periodic information, documents, and reports under s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(d), as amended;

3. Engages on behalf of any party in a transaction involving a ~~public~~ shell company, other than a business combination related shell company;

4. Directly, or indirectly through any of its affiliates, provides financing related to the transfer of ownership of an eligible privately held company;

5. Assists any party to obtain financing from an unaffiliated third party without:

a. Complying with all other applicable laws in connection with such assistance, including, if applicable, Regulation T under 12 C.F.R. ss. 220 et seq., as amended; and

b. Disclosing any compensation in writing to the party;

6. Represents both the buyer and the seller in the same transaction without providing clear written disclosure as to the parties the broker represents and obtaining written consent from both parties to the joint representation;

7. Facilitates a transaction with a group of buyers formed with the assistance of the Merger and Acquisition Broker to acquire the eligible privately held company;

8. Engages in a transaction involving the transfer of ownership of an eligible privately held company to a passive buyer or group of passive buyers;

9. Binds a party to a transfer of ownership of an eligible privately held company; or

10. Is subject to, or an officer, director, member, manager, partner, or employee of the broker is subject to, the following disciplinary actions:

a. Has been barred from association with a broker or dealer by the Securities and Exchange Commission, any state, or any self-regulatory organization; or

b. Is suspended from association with a broker or dealer.

~~4. Is subject to a suspension or revocation of registration under s. 15(b)(4) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(b)(4);~~

~~5. Is subject to a statutory disqualification described in s. 3(a)(39) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78c(a)(39);~~

~~6. Is subject to a disqualification under the United States Securities and Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d); or~~

~~7. Is subject to a final order described in s. 15(b)(4)(H) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(b)(4)(H).~~

Section 9. Subsection (1), paragraph (a) of subsection (2), and subsections (3) and (5) of section 517.131, Florida Statutes, are amended to read:

517.131 Securities Guaranty Fund.—

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

(a) "Final judgment" includes an arbitration award confirmed by a court of competent jurisdiction.

(b) "Restitution order" means a court order awarding a specified monetary amount to a named aggrieved person for a violation of s. 517.07 or s. 517.301 to be paid by a named violator.

(2)(a) The Chief Financial Officer shall establish a Securities Guaranty Fund to provide monetary relief to victims of securities violations under this chapter who are entitled to monetary damages or restitution and cannot recover the full amount of such monetary damages or restitution from the wrongdoer. An amount not exceeding 20 percent of all revenues received as assessment fees pursuant to s. 517.12(10) and (11) ~~s. 517.12(9) and (10)~~ for dealers and investment advisers or s. 517.1201 for federal covered advisers and an amount not exceeding 10 percent of all revenues received as assessment fees pursuant to s. 517.12(10) and (11) ~~s. 517.12(9) and (10)~~ for associated persons must be part of the regular registration license fee and must be transferred to or deposited in the Securities Guaranty Fund.

(3) A person is eligible for payment from the Securities Guaranty Fund if the person:

(a)1. Is a judgment creditor in ~~Holds~~ an unsatisfied final judgment or a named beneficiary or victim in an unsatisfied

restitution order entered on or after October 1, 2024, in which a wrongdoer was found to have violated s. 517.07 or s. 517.301;

2. Has applied any amount recovered from the judgment debtor, a person ordered to pay restitution, or any other source to the damages awarded in a final judgment or restitution order ~~by the court or arbitrator~~; and

3. Is a natural person who was a resident of this state, or is a business entity that was domiciled in this state, at the time of the violation of s. 517.07 or s. 517.301; or

(b) Is a receiver appointed pursuant to s. 517.191(2) by a court of competent jurisdiction for a wrongdoer ordered to pay restitution under s. 517.191(3) as a result of a violation of s. 517.07 or s. 517.301 which has requested payment from the Securities Guaranty Fund on behalf of a person eligible for payment under paragraph (a).

If a person holds an unsatisfied final judgment or restitution order entered before October 1, 2024, in which a wrongdoer was found to have violated s. 517.07 or s. 517.301, such person's claim for payment from the Securities Guaranty Fund shall be governed by the terms of this section and s. 517.141 which were effective on the date of such final judgment or restitution order.

(5) An eligible person, or a receiver on behalf of the eligible person, seeking payment from the Securities Guaranty

Fund must file with the office a written application on a form that the commission may prescribe by rule. The commission may adopt by rule procedures for filing documents by electronic means, provided that such procedures provide the office with the information and data required by this section. The application must be filed with the office within 1 year after the date of the final judgment, the date on which a restitution order has been ripe for execution, or the date of any appellate decision thereon, and, at minimum, must contain all of the following information:

(a) The eligible person's and, if applicable, the receiver's full names, addresses, and contact information.

(b) The name of the judgment debtor or person ordered to pay restitution.

(c) If the eligible person is a business entity, the eligible person's type and place of organization and, as applicable, a copy, as amended, of its articles of incorporation, articles of organization, trust agreement, or partnership agreement.

(d) A copy of any final judgment or ~~and a copy thereof.~~

~~(e) Any~~ restitution order ~~pursuant to s. 517.191(3), and a copy thereof~~.

(e) ~~(f)~~ An affidavit from the eligible person stating either one of the following:

1. That the eligible person has made all reasonable

searches and inquiries to ascertain whether the judgment debtor or person ordered to pay restitution possesses real or personal property or other assets subject to being sold or applied in satisfaction of the final judgment or restitution order and, by the eligible person's search, that the eligible person has not discovered any property or assets.

2. That the eligible person has taken necessary action on the property and assets of the wrongdoers but the final judgment or restitution order remains unsatisfied.

(f) ~~(g)~~ If the application is filed by the receiver, an affidavit from the receiver stating the amount of restitution owed to the eligible person on whose behalf the claim is filed; the amount of any money, property, or assets paid to the eligible person on whose behalf the claim is filed by the person over whom the receiver is appointed; and the amount of any unsatisfied portion of any eligible person's restitution order ~~of restitution~~.

(g) ~~(h)~~ The eligible person's residence or domicile at the time of the violation of s. 517.07 or s. 517.301 which resulted in the eligible person's monetary damages.

(h) ~~(i)~~ The amount of any unsatisfied portion of the eligible person's final judgment or restitution order.

(i) ~~(j)~~ Whether an appeal ~~or motion to vacate an arbitration award~~ has been filed.

Section 10. Subsection (3) of section 517.301, Florida

Statutes, is amended to read:

517.301 Fraudulent transactions; falsification or concealment of facts.—

(3) It is unlawful for a person in issuing or selling a security within this state, including a security exempted under s. 517.051 and including a transaction exempted under s. 517.061, s. 517.0611, or s. 517.0612, to misrepresent that such security or person ~~business entity~~ has been guaranteed, sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United States.

Section 11. Subsection (1) of section 517.211, Florida Statutes, is amended to read:

517.211 Private remedies available in cases of unlawful sale.—

(1) Every sale made in violation of either s. 517.07 or s. 517.12(1), (3), (4), (9), (11), (13), (16), or (18) ~~s. 517.12(1), (3), (4), (8), (10), (12), (15), or (17)~~ may be rescinded at the election of the purchaser; however, a sale made in violation of the provisions of s. 517.1202(3) relating to a renewal of a branch office notification or in violation of the provisions of s. 517.12(13) ~~s. 517.12(12)~~ relating to filing a change of address amendment is not subject to this section. Each person making the sale and every director, officer, partner, or agent of or for the seller, if the director, officer, partner,

or agent has personally participated or aided in making the sale, is jointly and severally liable to the purchaser in an action for rescission, if the purchaser still owns the security, or for damages, if the purchaser has sold the security. No purchaser otherwise entitled will have the benefit of this subsection who has refused or failed, within 30 days after receipt, to accept an offer made in writing by the seller, if the purchaser has not sold the security, to take back the security in question and to refund the full amount paid by the purchaser or, if the purchaser has sold the security, to pay the purchaser an amount equal to the difference between the amount paid for the security and the amount received by the purchaser on the sale of the security, together, in either case, with interest on the full amount paid for the security by the purchaser at the legal rate, pursuant to s. 55.03, for the period from the date of payment by the purchaser to the date of repayment, less the amount of any income received by the purchaser on the security.

Section 12. Subsection (2) of section 517.315, Florida Statutes, is amended to read:

517.315 Fees.—All fees of any nature collected by the office pursuant to this chapter shall be disbursed as follows:

(2) After the transfer required in subsection (1), the office shall transfer the $50 assessment fee collected from each associated person under s. 517.12(10) and (11) ~~s. 517.12(9) and~~

~~(10)~~ and 30.44 percent of the $100 assessment fee paid by dealers and investment advisers for each office in the state under s. 517.12(10) and (11) ~~s. 517.12(9) and (10)~~ to the Regulatory Trust Fund.

Section 13. This act shall take effect upon becoming a law.

INSURANCE & BANKING SUBCOMMITTEE

HB 379 by Rep. Barnaby
Relating to Securities

AMENDMENT SUMMARY
March 4, 2025

Amendment 1 by Rep. Barnaby (Line 42): The amendment revises the definition for the term "corporation;" and creates definitions for the terms "general partner," "limited partner," "partnership," and "shareholder."

Amendment 2 by Rep. Barnaby (Line 441): Regarding dealers and investment advisers, the amendment clarifies the individuals who must submit fingerprints for live-scan processing for registration applications. This clarification addresses concerns raised by the Florida Department of Law Enforcement (FDLE).

Amendment 3 by Rep. Barnaby (Line 666): Regarding intermediaries, the amendment clarifies the individuals who must submit fingerprints for live-scan processing for registration applications. This clarification addresses concerns raised by FDLE.

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Barnaby offered the following:

Amendment

Remove lines 42-82 and insert:

Section 1. Subsections (6) through (9), (10), (11), (12), (13) through (17), (18), (19), (20) through (25), (26), and (27) of section 517.021, Florida Statutes, are renumbered as subsections (7) through (10), (12), (14), (15), (17) through (21), (25), (26), (28), (28) through (33), (36), and (37), respectively, present subsections (11) and (15) are amended, and new subsections (6), (11), (13), (16), (21), (22), (23), (26), (31) and (33) are added to that section, to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(6) "Branch manager" means a natural person who administers or supervises the affairs or operations of a branch office.

(11) "Corporation" has the same meaning as "corporation," "domestic corporation," "foreign corporation," "nonprofit corporation," or "foreign nonprofit corporation" in s. 607.01401.

(13) "Director" means a person appointed or elected to sit on a board that manages the affairs of a corporation or other organization by electing or exercising control over its officers.

(14)~~(11)~~ "Federal covered adviser" means a person that is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940, as amended. The term does not include any person that is excluded from the definition of investment adviser under subparagraphs (19)(b)1.-7. ~~(16)(b)1.-7.~~ and 9.

(16) "General partner" means a co-owner or manager of a partnership who has unlimited liability for the partnership's debts including a "general partner" as that term is defined in s. 620.1102.

(19) ~~(15)~~ "Intermediary" means a ~~natural~~ person that ~~residing in this state or a corporation, trust, partnership, limited liability company, association, or other legal entity registered with the Secretary of State to do business in this state, which~~ facilitates through its website the offer or sale of securities of an issuer with a principal place of business in this state.

(22) "Limited liability company" has the same meaning as "limited liability company" or "foreign limited liability company," as those terms are defined in s. 605.0102.

(23) "Limited liability company manager" or "limited liability managing member" means a person who is responsible alone or in concert with others for performing the management functions of a limited liability company.

(24) "Limited partner" means a co-owner of a partnership who has limited liability for the partnership's debts including a "limited partner" as that term is defined in s. 620.1102.

(27) "Partnership" means two or more persons carrying on as co-owners of a business and including a "limited partnership," "limited liability limited partnership," "foreign limited partnership," or "foreign limited liability limited partnership," as those terms are defined in s. 620.1102.

(34) "Shareholder" means a person who owns at least one share of a corporation and whose ownership is reflected in the records of the corporation.

(35) "Trust" has the same meaning as in s. 731.201.

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Barnaby offered the following:

Amendment

Remove lines 441-512 and insert:

(7)(a)1. The following natural persons must submit a full set of fingerprints to the Department of Law Enforcement or to a vendor, entity, or agency authorized under s. 943.053(13) for live-scan processing in accordance with rules adopted by the commission.

a. A natural person filing with the office an application for registration as an associated person.

b. A natural person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance

officer, or director for a dealer or investment adviser applicant.

c. A natural person who is a 5 percent or more owner of a dealer or investment adviser applicant.

d. With respect to each 5 percent or more owner of a dealer or investment adviser applicant that is a corporation, partnership, trust, or limited liability company, each natural person who is a 25 percent or more owner or trustee of such entity, and each natural person who is a 25 percent or more owner or trustee at each level up the chain of ownership up to, but not including, an entity subject to sections 12 or 15(d) of the Securities Exchange Act of 1934, as amended.

2. For purposes of this subsection, the term "owner" means:

a. A shareholder who owns a percentage of a class of voting securities of a dealer or investment adviser applicant, and includes any person who owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, the percentage of a class of a voting security of the dealer or investment adviser applicant specified in sub-subparagraph c. or d. above. For purposes of this sub-subparagraph, a person beneficially owns any securities:

(I) Owned by the shareholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling,

mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or

(II) That the shareholder has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the securities.

b. A general partner of a partnership, and a limited partner of a partnership who has the right to receive upon dissolution, or has contributed, a percentage of the capital of a dealer or investment adviser applicant.

c. A trustee of a trust that owns a percentage of a class of a voting security of a dealer or investment adviser applicant, or that has the right to receive upon dissolution, or has contributed, a percentage of the capital of a dealer or investment adviser applicant.

d. A member of a limited liability company who has the right to receive upon dissolution, or has contributed, a percentage of the capital of a dealer or investment adviser applicant, and all limited liability company managers of a dealer or investment adviser applicant.

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Barnaby offered the following:

Amendment

Remove lines 666-743 and insert:

a. A natural person filing with the office an application for registration as an intermediary.

b. A natural person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, or director for an intermediary applicant.

c. A natural person who is a 5 percent or more owner of an intermediary applicant.

d. With respect to each 5 percent or more owner of an intermediary applicant that is a corporation, partnership,

trust, or limited liability company, each natural person who is a 25 percent or more owner or trustee of such entity, and each natural person who is a 25 percent or more owner or trustee at each level up the chain of ownership up to, but not including an entity subject to sections 12 or 15(d) of the Securities Exchange Act of 1934, as amended.

2. For purposes of this subsection, the term "owner" means:

a. A shareholder who owns a percentage of a class of voting securities of an intermediary applicant, and includes any person who owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, the percentage of a class of a voting security of the intermediary applicant specified in sub-subparagraph c. or d. above. For purposes of this sub-subparagraph, a person beneficially owns any securities:

(I) Owned by the shareholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or

(II) That the shareholder has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the securities.

b. A general partner of a partnership, and a limited partner of a partnership who has the right to receive upon

dissolution, or has contributed, a percentage of the capital of an intermediary applicant.

c. A trustee of a trust that owns a percentage of a class of a voting security of an intermediary applicant, or that has the right to receive upon dissolution, or has contributed, a percentage of the capital of an intermediary applicant.

d. A member of a limited liability company who has the right to receive upon dissolution, or has contributed, a percentage of the capital of an intermediary applicant, and, all limited liability company managers of an intermediary applicant.

(d) The vendor, entity, or agency authorized under s. 943.053(13) to submit fingerprints electronically to the Department of Law Enforcement shall submit the fingerprints to the department for state processing, and the department shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

(e) Fees for state and federal fingerprint processing shall be borne by the person subject to the criminal history record check. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e).

(f) The office shall review the results of the state and federal criminal history record checks and determine whether the applicant is disqualified from registration. The commission may waive by rule the requirement that applicants, including any persons listed in sub-subparagraphs (c)1.a.-d., submit

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 497 **TITLE:** Health Coverage by Nonprofit Agricultural Organizations **SPONSOR(S):** Grow	**COMPANION BILL:** SB 480 (DiCeglie) **LINKED BILLS:** None **RELATED BILLS:** None

Committee References

Insurance & Banking ➤ Health Care Facilities & Systems ➤ Commerce

SUMMARY

Effect of the Bill:

The bill renames Chapter 632, from "Fraternal Benefit Societies" to "Fraternal Benefit Societies and Nonprofit Agricultural Organizations" and reorganizes its provisions into two parts.

The bill designates existing sections as Part I, titled "Fraternal Benefit Societies," and creates Part II, titled "Nonprofit Agricultural Organizations."

The bill exempts the health coverage provided by a nonprofit agricultural organization from the regulation of insurance and insolvency guaranties provided by law to the consumers of such organizations under the Florida Insurance Code.

Fiscal or Economic Impact:

The bill may have a negative fiscal impact on state government revenues. It has no fiscal impact on state government expenses or local government revenues or expenses. It may have a positive economic impact on the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill renames Chapter 632, from "Fraternal Benefit Societies" to "Fraternal Benefit Societies and Nonprofit Agricultural Organizations" and reorganizes its provisions into two parts. (Section 1).

The bill designates existing sections as Part I, titled "Fraternal Benefit Societies," and creates Part II, titled "Nonprofit Agricultural Organizations." (Sections 2 and 3).

The bill exempts the health coverage provided by a nonprofit agricultural organization from the regulation of insurance and insolvency guaranties provided by law to the consumers of such organizations under the Florida Insurance Code. (Section 4-6).

The bill takes effect on July 1, 2025. (Section 7).

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

Insurance premium tax revenues may be reduced to the extent that purchasers of health coverage shift their business from health insurance to the exempt health coverage proposed by the bill.

PRIVATE SECTOR:

Members of eligible nonprofit agricultural organizations may realize savings on health coverage to the extent that health coverage products offered by such organizations are priced lower that insurance products that they may already purchase.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Health Insurance

Health insurance is the insurance of human beings against bodily injury or disablement by accident or sickness, including the expenses associated with such injury, disablement, or sickness.[1] Individuals purchase health insurance coverage with the purpose of managing anticipated expenses related to health or protecting themselves from unexpected medical bills or large health care costs. Managed care is the most common delivery system for medical care today by health insurers.[2] Managed care systems combine the delivery and financing of health care services by limiting the choice of doctors and hospitals.[3] In return for this limited choice, however, medical care is less costly due to the managed care network's ability to control health care services. Some common forms of managed care are preferred provider organizations[4] (PPO) and health maintenance organizations[5] (HMO).

Office of Insurance Regulation

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.[6] The Financial Services Commission (FSC), composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as the OIR agency head for purposes of rulemaking. Further, the FSC appoints the OIR Commissioner.

As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[7] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[8] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[9] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code (FIC).[10]

Health Maintenance Organizations

Health Maintenance Organizations (HMOs) in Florida operate within a regulatory framework overseen by OIR. To offer health insurance plans in Florida, HMOs must obtain a license from the OIR.[11] Managed care plans are the primary offerings of HMOs in Florida. These plans provide comprehensive healthcare services to members for a fixed monthly premium.[12] Members typically select a primary care physician from within the HMO's network, who serves as the main point of contact for all healthcare needs and referrals to specialists.[13]

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[1] S. 624.603, F.S.
[2] Florida Department of Financial Services, *Health Insurance and Health Maintenance Organizations, A Guide for Consumers,* available at: https://www.myfloridacfo.com/docs-sf/consumer-services-libraries/ (last visited Feb. 26, 2025).
[3] *Id*.
[4] S. 627.6471, F.S.
[5] Part I of ch. 641, F.S.
[6] S. 20.121(3)(a), F.S.
[7] S. 624.418, F.S.
[8] s. 624.316(1)(a), F.S.
[9] S. 624.318(2), F.S.
[10] *See* S. 624.3161, F.S. The Code is comprised of chs. 624-632, 634-636, 641, 642, 648, and 651, F.S. S. 624.01, F.S.
[11] S. 641.21(1), F.S.
[12] Medicare, What's an HMO? https://www.medicare.gov/health-drug-plans/health-plans/. (last visited Feb. 26, 2025).
[13] *Id*.

HMOs maintain networks of healthcare providers, including primary care physicians, specialists, hospitals, and other healthcare facilities.[14] Members are generally required to receive care from within the HMO's network, with exceptions for emergencies or authorized out-of-network care.[15]

Florida law provides various consumer protections for individuals enrolled in HMO plans, including guaranteed access to emergency services, coverage for essential health benefits mandated by the Affordable Care Act, and the right to appeal coverage decisions made by the HMO.[16]

Association Health Plans (AHPs)

An association health plan (AHP) is a group purchasing arrangement in which members of a trade group or professional association jointly obtain health insurance for employees. These arrangements differ from traditional group insurance by their unique structure, since they involve the purchase of insurance products across multiple employers.

On June 21, 2018, the Employee Benefits Security Administration within the federal Department of Labor (DOL) issued a final rule amending the parameters for association health plans (AHPs),[17] consistent with the directives of a 2017 Presidential Executive Order.[18] The revised regulations were intended to give an employer greater flexibility to participate in an AHP. The new federal rule, among other things, permitted establishing an AHP for the explicit purpose of providing health coverage, so long as the association has another legitimate purpose for members and allowed the self-employed and sole proprietors to participate in an AHP.[19] Overall, the federal rule was designed to offer an expanded pathway for the establishment of an AHP.

In July 2018, eleven states[20] and the District of Columbia sued the DOL, alleging the final rule, and particularly the rule's provisions on bona fide association and working owner provisions, conflicted with the text and purpose of Employee Retirement Income Security Act (ERISA) and Patient Portability and Affordable Care Act (PPACA), and exceeded DOL's statutory authority.[21] On March 28, 2019, the U.S. District Court for the District of Columbia agreed with the states, finding that the DOL unreasonably expanded ERISA's definition of "employers" as an end run around the requirements of PPACA.[22] The court struck down the portions of the DOL's AHP rule that expanded the ability of small businesses and owners to buy health insurance on the large group market that was not subject to PPACA requirements that apply to the small group market.[23]

State Regulation of AHPs

The regulatory oversight of health insurance is generally reserved to the states, except when explicitly preempted by federal law. In Florida, OIR is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuing certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the FIC.[24]

All health insurance policies issued in Florida, with the exception of certain self-insured policies,[25] must meet certain requirements that are detailed throughout the FIC. Ch. 627, F.S., sets parameters and requirements for health insurance policies and ch. 641, F.S., provides requirements for health plans issued by HMOs. At a minimum,

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[14] S. 641.19(12), F.S.
[15] Medicare, *What's an HMO?*, https://www.medicare.gov/health-drug-plans/health-plans/. (last visited Feb. 26, 2025).
[16] Consumer Services, *Health Insurance & HMO Overview*, https://www.myfloridacfo.com/division/consumers/understanding-insurance/health-insurance-and-hmo-overview (last visited Feb. 26, 2025).
[17] Definition of "Employer" Under Section 3(5) of ERISA-Association Health Plans, 83 FR 28912. June 21, 2018.
[18] Promoting Healthcare Choice and Competition Across the United States, 82 FR 48385. October 21, 2017.
[19] Milliman, Inc., *"Association health plans after the final rule"*, August 22, 2018, available at http://www.milliman.com/insight/2018/Association-health-plans-after-the-final-rule/ (last viewed on Feb. 26, 2025).
[20] California, Delaware, Kentucky, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Virginia, and Washington.
[21] State of New York, et al. v. U.S. Department of Labor, et al., No. 1:18-cv-01747 (D.D.C. Mar. 28, 2019).
[22] *Id.*
[23] *Id.*
[24] s. 20.121(3)(a)(1), F.S. The OIR's commissioner is the agency head for purposes of final agency action, and its rulemaking body is the Financial Services Commission (the Governor and the Cabinet).
[25] 29 U.S.C. 18 § 1001 et seq. ERISA regulates certain self-insured plans, which represent approximately 50 percent of the insureds in Florida. These plans cannot be regulated by state law.

insurance policies must specify premium rates, services covered, and effective dates. Insurers must document the time when a policy takes effect and the period during which the policy remains in effect.[26]

Florida Life and Health Insurance Guaranty Association
A guaranty association is typically a nonprofit corporation established by law to safeguard policyholders against financial losses and delays in claim payment and settlement resulting from the insolvency of an insurance company. In the event of an insolvency of a member, the guaranty association takes over the servicing of claims on eligible policies. Authorized insurers in Florida are typically required to participate in the applicable guaranty association for the relevant line of insurance as a condition of eligibility to transact insurance in the state.

Section 631.715, F.S., establishes the Florida Life and Health Insurance Guaranty Association (FLHIGA). Every insurer licensed to sell direct life insurance policies, health insurance policies, annuity contracts, and supplemental contracts in the state must participate in FLHIGA as a requirement for conducting business in Florida.[27] FLHIGA functions as a nonprofit corporation, governed by a Board of Directors consisting of nine to eleven members appointed by member insurers.[28]

Farm Bureau Health Plan
In a number of states, Farm Bureau Plans (FBPs) have been provided an exemption from regulation by the state's insurance regulatory authority to provide health coverage that is not regulated as an insurance product. The FBPs operate as healthcare options provided by a state's Farm Bureau to its members, typically catering to individuals and families within rural communities, including farmers and agricultural workers. To access FBPs, individuals must join their state's Farm Bureau organization. Membership often entails paying dues to support the Farm Bureau's advocacy and community initiatives. FBPs operate under a unique exemption from state insurance regulations, distinguishing them from traditional health insurance offerings. This exemption allows FBPs to be considered separately from standard health insurance products.

Unlike typical health insurance, FBPs, which predate the Affordable Care Act (ACA), utilize medical underwriting and are not subject to state or federal insurance mandates. Consequently, they can decline applicants based on medical history or impose waiting periods for pre-existing conditions without having to comply with essential health benefit requirements or maximum out-of-pocket limits mandated for ACA-compliant plans. While FBPs aren't classified as insurance, they still provide comprehensive benefits. In every state with FBPs, they typically offer options for comprehensive coverage at reasonable monthly costs, including free or low-cost preventative care, prescription drug coverage, telehealth services, dental and vision care options, and health savings accounts for qualified High Deductible Health Plans, with most plans having no annual or lifetime limits. Unlike individual market plans, participants can enroll in FBPs at any time. [29]

OTHER RESOURCES:

Health Insurance and Health Maintenance Organizations Consumer Guide
Health Insurance & HMO Overview
Association Health Plans After the Final Rule
Farm Bureau Health Coverage Plans

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[26] S. 627.413(1)(d), F.S.
[27] s. 631.716(1), F.S.
[28] *Id.*
[29] The states are Tennessee, Iowa, Kansas, Indiana, and Texas. The Foundation for Government Accountability, *Farm Bureau Health Coverage Plans*, https://thefga.org/wp-content/uploads/2021/01/Farm-Bureau-Plans-FAQ.pdf (last visited Feb. 26, 2025).

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Lloyd	Herrera
Health Care Facilities & Systems Subcommittee				
Commerce Committee				

A bill to be entitled

An act relating to health coverage by nonprofit agricultural organizations; revising the title of ch. 632, F.S.; designating part I of ch. 632, F.S., entitled "Fraternal Benefit Societies"; creating part II of ch. 632, F.S.; entitled "Nonprofit Agricultural Organizations"; creating s. 632.701, F.S.; providing a short title; defining the term "nonprofit agricultural organization"; authorizing nonprofit agricultural organizations to offer health coverage to their members; providing that such health coverage is not insurance for purposes of the Florida Insurance Code; amending ss. 624.01 and 624,12, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Chapter 632, Florida Statutes, entitled "Fraternal Benefit Societies," is retitled "Fraternal Benefit Societies and Nonprofit Agricultural Organizations."

Section 2. Sections 632.601 through 632.638, Florida Statutes, are designated as part I of chapter 632, Florida Statutes, and entitled "Fraternal Benefit Societies."

Section 3. Part II of chapter 632, Florida Statutes,

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

consisting of section 632.701, Florida Statutes, is created and entitled "Nonprofit Agricultural Organizations."

Section 4. Section 632.701, Florida Statutes, is created to read:

632.701 Health coverage by nonprofit agricultural organizations.—

(1) This section may be cited as the "Nonprofit Agricultural Organization Health Coverage Act of 2025."

(2) As used in this section, the term "nonprofit agricultural organization" means an organization that:

(a) Is domiciled in this state.

(b) Is exempt from federal income tax under s. 501(c)(5) of the Internal Revenue Code.

(c) Was created primarily to promote programs for the development of rural communities and the economic stability and sustainability of farmers in this state.

(d) Exists to serve its members beyond only offering health coverage.

(e) Collects annual dues from its members.

(f) Was in existence before 1945.

(g) Is composed of members from more than half of the counties in this state.

(3) A nonprofit agricultural organization may offer health coverage to its members.

(4) Notwithstanding any law to the contrary, the health

coverage provided by a nonprofit agricultural organization under subsection (3) is not insurance for purposes of the Florida Insurance Code.

Section 5. Section 624.01, Florida Statutes, is amended to read:

624.01 Short title.—Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, except for part II of chapter 632, constitute the "Florida Insurance Code."

Section 6. Section 624.12, Florida Statutes, is amended to read:

624.12 Application of code as to fraternal benefit societies and nonprofit agricultural organizations.—No provision of this code shall apply with respect to:

(1) Fraternal benefit societies ~~(~~as defined ~~identified~~ in s. 632.601 ~~chapter 632)~~, except as stated in part I of chapter 632.

(2) Nonprofit agricultural organizations as defined in s. 632.701.

Section 7. This act shall take effect July 1, 2025.

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

INSURANCE & BANKING SUBCOMMITTEE

HB 497 by Rep. Grow
Health Coverage by Nonprofit Agricultural Organizations

AMENDMENT SUMMARY
March 4, 2025

Amendment 1 by Rep. Grow (Strike-all): The amendment replaces all existing provisions with a new framework for nonprofit agricultural organizations to offer medical benefit plans rather than general health coverage. The amendment:

- Establishes a new statute (s. 624.4032, F.S.) to regulate nonprofit agricultural organization medical benefit plans modeled after the Church Benefit Plan Statute.
- Modifies the organization's definition, now requiring 501(c)(3) tax-exempt status instead of 501(c)(5).
- Requires a disclaimer on applications and marketing materials, informing consumers that the plan is not insurance, not subject to state insurance regulations or consumer protections.
- Prohibits marketing through licensed insurance agents to differentiate these plans from regulated insurance products.
- Mandates annual financial audits by an independent CPA, ensuring transparency and public access to financial information which must be provided on request.

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Grow offered the following:

Amendment

Remove everything after the enacting clause and insert:

Section 1. Section 624.4032, Florida Statutes, is created to read:

624.4032 Nonprofit agricultural organization medical benefit plans. —

(1) The purpose of this section is to authorize nonprofit agricultural organizations to offer medical benefit plans to their members.

(2) For purposes of this section, the term "nonprofit agricultural organization" means an organization that meets all of the following criteria:

(a) Is domiciled in this state.

(b) Is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

(c) Was created primarily to promote programs for the development of rural communities and the economic stability and sustainability of farmers in this state.

(d) Exists to serve its members beyond only offering medical expense plans.

(e) Collects annual dues from its members.

(f) Was in existence before 1945.

(g) Is composed of members who, collectively, are residents of the majority of counties in this state.

(3) A nonprofit agricultural organization:

(a) May offer medical benefit plans to members of such nonprofit agricultural organization. Such plans are not insurance for purposes of the Florida Insurance Code.

(b) Shall provide a written disclaimer on or accompanying all applications and marketing materials for a medical benefit plan, regardless of whether such applications and marketing materials are distributed by or on behalf of the nonprofit agricultural organization. The disclaimer must read in substance: "Notice: This medical benefit plan is not an insurance policy or health maintenance organization contract and is not subject to the regulatory requirements and consumer protections that apply to health insurance policies or health

maintenance organization contracts under the Florida Insurance Code. The nonprofit agricultural organization offering this medical benefit plan is not an authorized insurer or authorized health maintenance organization in Florida and the nonprofit agricultural organization is not subject to the regulatory requirements or consumer protections of the Florida Insurance Code." The disclaimer must be in contrasting color and at least 12-point type.

(c) May not market or sell medical benefit plans through agents licensed by the department.

(d) Must conduct an annual financial audit that is performed by an independent certified public accountant in accordance with generally accepted accounting principles and that is made available to the public by providing a copy upon request or by posting on the nonprofit agricultural organization's website.

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 655	**COMPANION BILL:** SB 1226 (DiCeglie)
TITLE: Pet Insurance and Wellness Programs	**LINKED BILLS:** None
SPONSOR(S): Tuck	**RELATED BILLS:** None

Committee References

Insurance & Banking ➤ Commerce

SUMMARY

Effect of the Bill:

The bill creates necessary regulatory statutes to facilitate the production of pet insurance policies for sale within the state, encompassing various aspects such as defining pet insurance, establishing disclosure requirements, and regulating the marketing and sales practices of wellness programs. It expands the definition of property insurance to include coverage for pets, covering accidents and illnesses explicitly. Additionally, the bill imposes training requirements for agents and brokers involved in selling pet insurance policies and outlines enforcement measures, including penalties for violations under the Florida Insurance Code.

Fiscal or Economic Impact:

The bill may have an indeterminate fiscal impact on the private sector and state government expenditures.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Expansion of Property Insurance Definition to Include Pet Coverage

This bill amends the definition of "property insurance" to explicitly include pet insurance coverage for accidents and for illnesses or diseases of pets. It clarifies that property insurance may contain a provision for accidental death or injury as part of a multiple peril homeowner's policy, which is considered incidental to the property insurance and is not subject to the provisions of the code applicable to life or health insurance. (Section 1).

Regulation of Sales Practices for Pet Wellness Programs

The bill defines unfair methods of competition and unfair or deceptive acts or practices related to the sales practices for pet wellness programs. It prohibits pet insurance agents from marketing a wellness program as pet insurance. If a wellness program is sold by a pet insurance agent, several conditions must be met, including:

- The purchase of the wellness program cannot be a prerequisite to the purchase of pet insurance.
- The costs of the wellness program must be separate and identifiable from any pet insurance policy sold by the agent.
- The terms and conditions of the wellness program must be distinct from any pet insurance policy sold by the agent.
- The products or coverages available through the wellness program cannot duplicate those available through the pet insurance policy.
- The advertising of the wellness program must not be misleading. (Section 2).

Pet Insurance Definitions and Usage

The bill creates necessary regulatory statutes to facilitate the production of pet insurance policies for sale within the state. The bill applies to policies issued to residents of the state, those sold or offered within the state's boundaries, as well as policies delivered or issued for delivery in the state.

The bill defines pet insurance as coverage designed for accidents and illnesses or diseases of pets, facilitating reimbursement for expenses linked to veterinary medical advice, diagnosis, care, or treatment, encompassing prescribed medications. Additionally, it introduces definitions for various terms, including chronic conditions, congenital anomaly or disorder, hereditary disorder, orthopedic condition, pet insurance policy, preexisting condition, renewal, veterinarian, waiting period, and wellness program.

The bill mandates that if pet insurers incorporate the defined terms within a pet insurance policy, they must adhere to the provided definition verbatim. Additionally, the pet insurer is required to ensure accessibility of these definitions to policyholders. (Section 3).

Disclosure Requirements for Pet Insurance Policies

The bill requires pet insurers to disclose coverage exclusions for chronic conditions, congenital anomalies, hereditary disorders, and preexisting conditions, along with any other applicable exclusions. Additionally, they must disclose policy provisions limiting coverage, changes in coverage or premiums, and differentiate between the underwriting company and the marketed brand.

Pet insurers must allow a 30-day review period for policyholders to return policies for a refund if unsatisfied, provided no claims have been filed. They must also disclose the basis for determining claim payments, including benefit schedules and fee limitations, and any required medical examinations before policy purchase.

Further, the bill requires pet insurers to clearly disclose waiting periods and their requirements to applicants. Pet insurers must provide a summary of policy provisions and written disclosures including contact details for regulatory offices and the insurer or agent. These disclosures are in addition to any other disclosures required by law or regulation. (Section 3).

Preexisting Conditions, Waiting Periods, and Policy Renewals

The bill allows pet insurers to issue policies excluding coverage for preexisting conditions, provided that appropriate disclosure is made to the applicant or policyholder, with the burden of proving the applicability of the exclusion resting on the insurer. Additionally, pet insurers are permitted to impose waiting periods before the effective date of a new policy, not exceeding 30 days for certain conditions,[1] with provisions for waiving the waiting period upon completion of a medical examination, the costs of which are typically paid by the policyholder. These waiting periods and their requirements must be clearly disclosed to applicants before policy purchase.

The bill prohibits pet insurers from requiring medical examinations for policy renewals and mandates compliance with the Florida Insurance Code for additional benefits included in policies. Furthermore, it ensures that an applicant's eligibility for pet insurance is not tied to participation in a wellness program. (Section 3).

Marketing and Sales of Wellness Programs

The bill prohibits pet insurers and their agents from misrepresenting wellness programs as pet insurance. It mandates that if wellness programs are offered alongside pet insurance, they must be separate and not required for pet insurance purchase. Additionally, the costs, terms, and products of wellness programs must be distinct from pet insurance. Clear disclosures must be provided to applicants and policyholders regarding the nature of wellness programs, and wellness benefits within pet insurance policies are recognized as insurance. (Section 3).

[1] "Certain conditions" referenced in this sentence include illnesses, diseases, or orthopedic conditions not resulting from an accident, as specified within the context of the bill

Agent and Broker Training Requirements

The bill requires specific training for agents and brokers involved in selling pet insurance policies. Agents and brokers must obtain appropriate licensing and complete specified training before engaging in the sale, solicitation, or negotiation of pet insurance policies. Pet insurers are responsible for ensuring that their agents and brokers receive training on preexisting conditions, waiting periods, and the distinctions between pet insurance and wellness programs. Additionally, training must cover chronic conditions, congenital anomalies, hereditary disorders, and administrative aspects of pet insurance policies. Satisfaction of training requirements from other states with substantially similar provisions is recognized as meeting the training standards in the state. (Section 3).

Enforcement, Applicability, and Rulemaking Authority

A violation of the bill's requirements will be a violation of the Florida Insurance Code. Additionally, it clarifies that while all other relevant insurance laws apply to pet insurance, the specific regulations outlined in this bill take precedence over any conflicting general provisions. The bill does not restrict the types of exclusions pet insurers can employ in their policies nor does it mandate the inclusion of any specific limitations or exclusions. Furthermore, the bill grants the commission the authority to adopt rules and regulations essential for the effective administration of this section. (Section 3).

The bill provides an effective date of January 1, 2026. (Section 4).

RULEMAKING:

Sufficient rulemaking authority for the FSC and OIR to administer the bill's provisions is provided.

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill necessitates the incorporation of pet insurance into the information technology systems of OIR, resulting in a one-time impact. However, OIR existing resources have the capacity to absorb this impact.[2]

PRIVATE SECTOR:

The bill may positively impact the private sector if the regulatory efficiency it establishes results in lower production costs for pet insurance providers.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

National Association of Insurance Commissioners

The National Association of Insurance Commissioners (NAIC) serves as the insurance standard-setting and regulatory support body in the United States.[3] Comprised of insurance regulators from all 50 states, the District of

[2] Email from Kevin James, Deputy Legislative Affairs Director, Department of Management Services, HB 1465 Bill Analysis (Jan. 25, 2024). The bill analysis has not yet been received; however, DMS provided similar information in its analysis of last year's legislation, and this section of the bill remains identical to last year's version.

Columbia, and five U.S. territories, the NAIC aids state regulators in fulfilling their public service mandate.[4] It achieves this by setting standards and regulatory best practices, facilitating the exchange of information, offering regulatory support services, and educating consumers, industry professionals, and government stakeholders on the state-based insurance regulatory framework of the United States.[5]

Office of Insurance Regulation

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers, and other risk bearing entities in Florida.[6] The Financial Services Commission (FSC), composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the OIR for purposes of rulemaking. Further, the FSC appoints the OIR commissioner.

As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[7] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[8] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[9] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.[10]

Current Situation - Pet Insurance

Pet insurance offers coverage for accidents and illnesses primarily for household pets, notably dogs and cats.[11] While classified and regulated as Property and Casualty (P/C) insurance[12], it parallels human health insurance in providing annual coverage subject to predetermined rates and conditions.[13] Originating in the U.S. in 1980, pet insurance has experienced significant expansion since its inception.[14]

The North American Pet Health Insurance Association (NAPHIA) serves as the leading advocacy group, representing over 99 percent of the U.S. and Canada pet health insurance industry.[15] Notably, in 2017, NAPHIA members witnessed growth, with total premium volume reaching approximately $1.03 billion in the U.S., marking a substantial 23.2 percent increase from the previous year.[16] In the U.S. and its territories, direct written premiums amounted to roughly $640 billion.[17] Despite the rapid growth, pet insurance still represents a small percentage of the total P/C market.[18]

Pet insurance policies typically cover various veterinary expenses, including[19]:

- Accidents: coverage for injuries resulting from accidents, such as broken bones or ingesting foreign objects.

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[3] NAIC, *Our Story*, https://content.naic.org/about (last visited Feb. 28, 2025).
[4] *Id*.
[5] *Id*.
[6] S. 20.121(3)(a), F.S.
[7] S. 624.418, F.S.
[8] S. 624.316(1)(a), F.S.
[9] S. 624.318(2), F.S.
[10] The Code is comprised of chs. 624-632, 634-636, 641, 642, 648, and 651, F.S. *See* S. 624.3161, F.S.
[11] National Association of Insurance Commissioners, *A Regulator's Guide to Pet Insurance*, p. 3 https://content.naic.org/sites/default/files (last visited Feb. 28, 2025).
[12] Casualty insurance is a broad category of insurance coverage for individuals, employers, and businesses against loss of property, damage, or other liabilities. Casualty insurance includes vehicle insurance, liability insurance, and theft insurance. Liability losses are losses that occur as a result of the insured's interactions with others or their property. *See* Investopedia, *Casualty Insurance: Definition, Types, and Examples,* https://www.investopedia.com/terms/c/casualtyinsurance.asp (last visited Feb. 28, 2025).
[13] *Id*.
[14] *Id*.
[15] *Id*.
[16] *Id at 4*.
[17] *Id*.
[18] *Id*.
[19] Forbes, *What Does Pet Insurance Cover?*, https://www.forbes.com/advisor/pet-insurance/what-does-pet-insurance-cover/ (last visited March 3, 2025).

- Illnesses: coverage for treatments related to illnesses such as cancer, diabetes, or infections.
- Routine Care: some policies offer optional coverage for routine care, including vaccinations, wellness exams, and dental cleanings.
- Hereditary and Congenital Conditions: certain policies may cover hereditary and congenital conditions, although these often have specific limitations and waiting periods.

In 2017, a survey by the American Pet Products Association revealed that approximately 68 percent of U.S. households, totaling around 84.65 million families, had at least one pet, including dogs, cats, or other animals.[20] Of these households, about 60 million owned at least one dog, and 47 million had at least one cat.[21] Despite this large number of pet owners, there's considerable room for growth in the pet insurance sector.[22] However, only about 1.5 million dogs and 300,000 cats were insured in 2017, representing less than 2 percent of dogs and less than 0.5 percent of cats owned in the country.[23] In the U.S., there are roughly 90 million household dogs and 95 million household cats, indicating a substantial potential market for pet insurance coverage.[24]

Pet insurance coverage in the U.S. has seen consistent annual growth rates of 15 percent to 20 percent over the past five years.[25] The distribution of pet insurance is notably concentrated in larger urban areas, with California and New York emerging as the primary markets.[26] For a visual representation of the distribution of pets and Gross Written Premiums (GWP) by state, please refer to the chart below.[27] According to data from NAPHIA members, the total premium volume in the U.S. reached approximately $3.9 billion by the end of 2023, with a slight slowdown in growth observed in 2023.[28]

U.S. Market (Full) Pets and GWP Distribution by State (2023)

STATE	PETS	GWP
California	18.3%	20.1%
New York	7.5%	8.7%
Florida	6.2%	6.6%
Texas	5.7%	5.1%
New Jersey	4.9%	5.3%
Pennsylvania	4.5%	4.3%
Massachusetts	4.3%	4.9%
Washington	3.9%	4.1%
Illinois	3.2%	3.3%
Virginia	3.0%	3.1%
Colorado	2.9%	3.1%
North Carolina	2.7%	2.4%
Ohio	2.3%	1.9%
Georgia	2.2%	1.9%
Maryland	2.1%	2.3%
Connecticut	1.9%	2.2%
Michigan	1.9%	1.6%
Arizona	1.9%	1.9%

STATE	PETS	GWP
Oregon	1.7%	1.6%
Nevada	1.4%	1.3%
Minnesota	1.3%	1.1%
Wisconsin	1.3%	1.0%
South Carolina	1.2%	1.0%
Tennessee	1.2%	1.0%
Indiana	1.2%	0.9%
Missouri	1.0%	0.7%
New Hampshire	0.9%	0.9%
Utah	0.7%	0.6%
Maine	0.6%	0.6%
Louisiana	0.6%	0.5%
Rhode Island	0.6%	0.5%
Hawaii	0.6%	0.6%
Kentucky	0.6%	0.5%
Alabama	0.5%	0.4%
Iowa	0.5%	0.4%
Kansas	0.4%	0.3%

STATE	PETS	GWP
Oklahoma	0.4%	0.3%
District of Columbia	0.4%	0.4%
New Mexico	0.4%	0.3%
Idaho	0.4%	0.3%
Delaware	0.3%	0.3%
Alaska	0.3%	0.3%
Vermont	0.3%	0.3%
Nebraska	0.3%	0.2%
Arkansas	0.3%	0.2%
Montana	0.2%	0.2%
West Virginia	0.2%	0.2%
Mississippi	0.2%	0.1%
North Dakota	0.1%	0.1%
Wyoming	0.1%	0.1%
Other: Puerto Rico	0.1%	0.1%
South Dakota	0.1%	0.1%

As companion animals live longer, veterinary care costs are rising, prompting more pet owners to consider insurance for managing expenses related to preventive care, illnesses, and emergencies. In 2023, the North

[20] National Association of Insurance Commissioners, *A Regulator's Guide to Pet Insurance*, p. 4 https://content.naic.org/sites/default/files/publication-pin-op-pet-insurance.pdf (last visited Feb. 28, 2025).
[21] *Id.*
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] *Id.* at 7.
[26] *Id.*
[27] NAPHIA, *State of the Industry Report 2023 Highlights*, p. 24, NAPHIA-SOI2024-Report-Highlights_Public-May16.pdf (last visited Feb. 28, 2025).
[28] *Id.* at 10.

American pet insurance industry surpassed $4 billion in premiums, with over 6.25 million pets insured—a 20.9% increase from 2022.[29] Data from NAPHIA indicates the average annual premium for pet insurance varies based on the type of plan.[30] In 2023, for dogs, Accident & Illness plans averaged $675.61, while Embedded Wellness plans cost $1,263.39.[31] For cats, the costs were $383.30 for Accident & Illness plans and $625.99 for Embedded Wellness. Accident Only policies remain the most affordable, averaging $204.16 for dogs and $116.11 for cats.[32]

Development of Regulatory Standards for the Pet Insurance Industry

In April 2019, the Pet Insurance Working Group was tasked with reviewing NAIC's "A Regulator's Guide to Pet Insurance" to determine if a model law or guideline was necessary to establish appropriate regulatory standards for the pet insurance industry.[33] Subsequently, a request for Model Law development related to pet insurance was adopted during the NAIC 2019 Spring National Meeting, addressing various aspects such as definitions, disclosures, violations, producer licensing, preexisting conditions, reimbursement benefits, and regulations.[34] During the NAIC's Summer 2022 National Meeting in members voted to adopt the Pet Insurance Model Act, which includes key provisions concerning pet wellness programs, preexisting conditions, consumer protections, and training for insurance producers.[35] Currently, California, Delaware, Louisiana, Maine, Maryland, Nebraska, New Hampshire, the Northern Mariana Islands, Vermont, and Washington have adopted a substantially similar version of the NAIC model.[36]

Current Situation – Florida

Currently, several companies offer pet insurance in Florida; however, Florida law does not separately regulate pet insurance. Below are companies that provide pet insurance:[37]

Companies	Average Monthly Cost	Waiting Periods	Maximum Annual Limits
Pets Best	• $54 for dogs • $22 for cats	• 14 days for illnesses • Two days for injuries • Six months for orthopedic conditions	$5,000 - Unlimited
Spot Pet Insurance	• $73 for dogs • $36 for cats	• 14 days for illnesses • 14 days for injuries	$2,500 - Unlimited
Embrace	• $52 for dogs • $37 for cats	• 48 hours for accidents • 14 days for illnesses • Six months for orthopedic	$5,000 - $30,000

[29] NAPHIA, North American Pet Health Insurance Industry Continued Exceptional Growth Rate In 2023, https://naphia.org/news/soi-report-2024/ (Last visited Feb. 28, 2024).
[30] *Id.* at 20.
[31] *Id.*
[32] *Id.*
[33] NAIC, *Pet Insurance*, https://content.naic.org/cipr-topics/pet-insurance (last visited March 3, 2025).
[34] *Id.*
[35] *Id.*
[36] NAIC, *Pet Insurance Model Act*, https://content.naic.org/sites/default/files/model-law-state-page-633_0.pdf (last visited March 3, 2025).
[37] Market Watch, *The Best Pet Insurance Companies in Florida (2024)*, https://www.marketwatch.com/guides/pet-insurance/pet-insurance-florida/ (last visited March 3, 2025).

		conditions	
ASPCA Pet Health Insurance	• $54 for dogs • $24 for cats	• 14 days for illnesses • 14 days for accidents	$3,000 - $10,000

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	CS/CS/HB 1465	Tuck	DiCeglie	The bill died in the Senate Fiscal Policy Committee.

OTHER RESOURCES:

Pet Insurance Model Act

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Lloyd	Herrera
Commerce Committee				

A bill to be entitled

An act relating to pet insurance and wellness programs; amending s. 624.604, F.S.; revising the definition of the term "property insurance" to include a pet insurance option; amending s. 626.9541, F.S.; providing that certain practices relating to pet wellness programs are unfair methods of competition and unfair or deceptive acts or practices; creating s. 627.71545, F.S.; providing a short title; providing purpose; providing applicability; providing construction; providing definitions; requiring pet insurers that use such defined terms in their pet insurance policies to use and include the statutory definitions in their policies; requiring pet insurers to also make such definitions available on their websites or their program administrators' websites; requiring pet insurers to make certain disclosures to pet insurance applicants and policyholders; requiring pet insurers to provide a summary of their bases or formulas for determination of claim payments under a pet insurance policy on their websites or their program administrators' websites; requiring pet insurers to disclose certain requirements for required medical examinations of a pet by a veterinarian; requiring pet insurers to create a document with a

summary of certain disclosures, to post such document on their websites or their program administrators' websites, and, upon issuance or delivery of a policy to a policyholder, to provide such document to the policyholder; requiring additional written disclosures; providing that certain required disclosures are in addition to disclosures required by the Florida Insurance Code or the Financial Services Commission rules; authorizing pet insurance applicants and policyholders to examine and return insurance policies and riders under certain circumstances; requiring that premiums be refunded under certain circumstances; requiring that pet insurance policies and riders have a specified notice printed on or attached to the first page; authorizing pet insurers to issue policies that exclude coverage on the basis of preexisting conditions with appropriate written disclosure to the applicant or policyholder; providing that the pet insurer has a specified burden of proof with regard to such exclusions; authorizing pet insurers to issue new policies that impose a waiting period of up to a specified period of time for specified illnesses, diseases, or conditions; prohibiting pet insurers from issuing policies imposing a waiting period for accidents; requiring pet

insurers who issue a policy that imposes a waiting period to include a provision allowing for waiver of the waiting period upon completion of a medical examination of the covered pet by a veterinarian; authorizing pet insurers to require an examination to be conducted by a veterinarian after the purchase of the policy; providing requirements and authorizations relating to such examination; prohibiting a pet insurer from requiring a medical examination of the covered pet to renew a policy; requiring that certain benefits comply with certain provisions of the Florida Insurance Code; prohibiting insurance applicants' eligibility from being based on participation or lack of participation in wellness programs; requiring pet insurers to ensure that their agents are trained on specified topics; providing rulemaking authority; providing an effective date.

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

Section 1. Section 624.604, Florida Statutes, is amended to read:

624.604 "Property insurance" defined.—"Property insurance" is insurance on real or personal property of every kind and of every interest therein, whether on land, water, or in the air,

against loss or damage from any and all hazard or cause, and against loss consequential upon such loss or damage, other than noncontractual legal liability for any such loss or damage. Property insurance may include pet insurance that provides coverage for accidents and for illnesses of pets. Property insurance may contain a provision for accidental death or injury as part of a multiple peril homeowner's policy. Such insurance, which is incidental to the property insurance, is not subject to the provisions of this code applicable to life or health insurance. Property insurance does not include title insurance, as defined in s. 624.608.

Section 2. Paragraph (hh) is added to subsection (1) of section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(hh) Sales practices for pet wellness programs.—

1. A pet insurance agent may not market a wellness program as pet insurance.

2. If a wellness program is sold by a pet insurance agent:

a. The purchase of the wellness program may not be a prerequisite to the purchase of pet insurance;

b. The costs of the wellness program must be separate and

identifiable from any pet insurance policy sold by the pet insurance agent;

c. The terms and conditions of the wellness program must be separate from any pet insurance policy sold by the agent;

d. The products or coverages available through the wellness program may not duplicate the products or coverages available through the pet insurance policy; and

e. The advertising of the wellness program must not be misleading.

Section 3. Section 627.71545, Florida Statutes, is created to read:

627.71545 Pet insurance; noninsurance wellness programs.—

(1) This section may be cited as the "Pet Insurance Act."

(2) The purpose of this section is to promote the public welfare by creating a comprehensive regulatory framework within which pet insurance may be sold in this state.

(3) This section applies to all of the following:

(a) Pet insurance policies that are issued to any resident of this state or that are sold, solicited, negotiated, or offered in this state.

(b) Pet insurance policies or certificates that are delivered or issued for delivery in this state.

(4)(a) This section may not be construed to prohibit or limit the types of exclusions pet insurers may use in their policies or to require pet insurers to include in such policies

any of the limitations or exclusions specified in subsection (9).

(b) All other applicable provisions of the Florida Insurance Code apply to pet insurance, except that this section supersedes any general provisions of the Florida Insurance Code which otherwise apply to pet insurance.

(5)(a) As used in this section, the term:

1. "Chronic condition" means a condition that can be treated or managed, but not cured.

2. "Congenital anomaly or disorder" means a condition that is present from birth, whether inherited or caused by the environment, and that may cause or contribute to illness or disease.

3. "Hereditary disorder" means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

4. "Orthopedic conditions" means a condition that affects the bones, skeletal muscle, cartilage, tendons, ligaments, or joints. The term includes, but is not limited to, elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and cranial cruciate ligament rupture, but does not include any cancer or any metabolic, hematopoietic, or autoimmune disease.

5. "Pet insurance" means an insurance policy that provides coverage for accidents and for illnesses and diseases of pets.

Such insurance reimburses a policyholder for expenses associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by the veterinarian.

6. "Pet insurance policy" or "policy" includes pet insurance certificates.

7. "Preexisting condition" means a condition for which any of the following is true before the effective date of or during a waiting period applicable to a pet insurance policy:

a. A veterinarian provided medical advice.

b. The pet received previous treatment.

c. Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

A condition for which coverage is afforded on a policy is not deemed to be a preexisting condition on any renewal of the policy.

8. "Renewal" means the issuance and delivery at the end of an insurance policy period of a policy that supersedes the policy previously issued and delivered by the same pet insurer or affiliated pet insurer and that provides types and limits of coverage substantially similar to those contained in the policy being superseded.

9. "Veterinarian" means a health care practitioner who is

licensed to engage in the practice of veterinary medicine in this state under chapter 474.

10. "Waiting period" means the period of time specified in a pet insurance policy which is required to run before some or all of the coverage in the policy may begin. This period may not be applied to renewals of existing coverage.

11. "Wellness program" means a subscription or reimbursement-based program that is separate from an insurance policy and that provides goods and services to promote the general health, safety, or well-being of the covered pet. If the subscription or program includes language such as "undertakes to indemnify another," "pays a specified amount upon determinable contingencies," or "provides coverage for a fortuitous event," the subscription or program is transacting in the business of insurance and is subject to the Florida Insurance Code. This definition is not intended to classify a contract directly between a service provider and a pet owner which involves only the two parties as being the business of insurance, unless other indications of insurance also exist.

(b) If a pet insurer uses any of the terms defined in paragraph (a) in a pet insurance policy, the pet insurer must use the definition of each term as provided in paragraph (a) and must include each such definition in the policy. The pet insurer must also make such definitions available through a clear and conspicuous link on the main page of the website of the pet

insurer or the pet insurer's program administrator.

(6)(a) A pet insurer transacting pet insurance must disclose the following to pet insurance applicants and policyholders:

1. Whether the policy excludes coverage due to any of the following:

a. A chronic condition;

b. A congenital anomaly or disorder;

c. A hereditary disorder; or

d. A preexisting condition.

2. If the policy includes any other exclusions not listed in subparagraph 1., the following information in a statement in the disclosure: "Other exclusions may apply. Please refer to the exclusions section of the policy for more information."

3. Any policy provision that limits coverage through a waiting period, a deductible, a coinsurance payment, or an annual or lifetime policy limit. Waiting periods and applicable requirements must be clearly and prominently disclosed to applicants before the policy purchase.

4. Whether the pet insurer reduces coverage or increases premium based on the policyholder's claims history, the age of the covered pet, or a change in the geographic location of the policyholder.

5. Whether the underwriting company differs from the brand name used to market and sell the pet insurance.

(b) Before issuing a pet insurance policy, a pet insurer shall, through a clear and conspicuous link on the main page of the pet insurer's or the pet insurer's program administrator's website, provide a summary description of the basis or formula for the pet insurer's determination of claim payments under the policy.

1. A pet insurer that uses a benefit schedule to determine claim payments under a pet insurance policy must clearly disclose both of the following:

a. The applicable benefit schedule in the policy.

b. All benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of the pet insurer's or pet insurer's program administrator's website.

2. A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do both of the following:

a. Include a usual and customary fee limitation provision in the policy which clearly describes the pet insurer's basis or formula for determining usual and customary fees and the manner in which that basis or formula is applied in calculating claim payments.

b. Disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the

main page of the pet insurer's or pet insurer's program administrator's website.

(c) If any medical examination of the pet by a veterinarian is required to effectuate coverage, the pet insurer must clearly and conspicuously disclose any requirement for the examination before the policy is purchased and must disclose that examination documentation may result in a preexisting condition exclusion.

(d) A pet insurer shall create a summary of all policy disclosures required in paragraphs (a), (b), and (c) in a separate document entitled "Insurer Disclosure of Important Policy Provisions." The pet insurer shall post the document through a clear and conspicuous link on the main page of the pet insurer's or pet insurer's program administrator's website.

(e) At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall provide the policyholder with a copy of the Insurer Disclosure of Important Policy Provisions document required under paragraph (d), in at least 12-point type. At such time, the pet insurer shall also include a written disclosure with all of the following:

1. Contact information for the Division of Consumer Services of the department, including a link and toll-free telephone number, for consumers to submit inquiries and complaints relating to pet insurance products regulated by the department or office.

2. The address and customer service telephone number of the pet insurance agent.

(f) The disclosures required in this subsection are in addition to any other disclosures required by the Florida Insurance Code or rules prescribed by the commission.

(7) Unless the policyholder has filed a claim under the pet insurance policy, a pet insurance applicant or policyholder may examine and return the policy or rider to the pet insurer or pet insurance agent or broker within 30 days after the applicant or policyholder obtains the receipt and is entitled to the premium refunded if, after examining the policy or rider, he or she is not satisfied for any reason.

(8) A pet insurance policy and rider must have a notice prominently printed on or attached to the first page which includes specific instructions to accomplish a return, in type at least as large as any type appearing on the policy or rider contract and in substantially the following language:

You have 30 days after the date you receive this policy, certificate, or rider to review and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep policy, certificate, or rider, simply return it to the company at the company's administrative office, or to the insurance

agent or broker from whom you bought it, as long as you have not filed a claim. You must return the policy, certificate, or rider within 30 days after the day you first receive it in order to receive a refund. The company must refund the full amount of any premium paid within 30 days after it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate, or rider will be void as if it had never been issued.

(9)(a) A pet insurer may issue a policy that excludes coverage on the basis of one or more preexisting conditions with appropriate written disclosure to the applicant or policyholder. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

(b)1. A pet insurer may issue a new policy imposing a waiting period that does not exceed 30 days after effectuation of coverage for illnesses or diseases or for orthopedic conditions not resulting from an accident. A pet insurer may not issue a policy imposing a waiting period for accidents.

2. A pet insurer issuing a policy that imposes a waiting period must include a provision in its contract which allows the waiting period to be waived upon completion of a medical

examination of the pet by a veterinarian. The pet insurer may require the examination to be conducted by a veterinarian after the purchase of the policy.

a. A medical examination required under this subparagraph must be paid for by the policyholder, unless the policy specifies that the pet insurer will pay for the examination.

b. A pet insurer may specify requirements for the examination and require documentation that the requirements have been satisfied, provided that the specifications do not unreasonably restrict the ability of the applicant or policyholder to waive the waiting period.

(c) A pet insurer may not require a medical examination of the covered pet for the policyholder to renew a policy.

(d) If a pet insurer includes any prescriptive, wellness, or noninsurance benefit in the policy form, the benefit is made part of the policy contract and must comply with all of the applicable provisions of the Florida Insurance Code.

(e) An applicant's eligibility to purchase a pet insurance policy may not be based on his or her participation, or lack of participation, in a separate wellness program.

(10)(a) A pet insurer must ensure that its agents are trained on the topics specified in paragraph (b) and that its agents have been appropriately trained on the coverages and conditions of its pet insurance products.

(b) The training required under this subsection must

include information on all of the following topics:

1. Preexisting conditions and waiting periods.

2. The differences between pet insurance and noninsurance wellness programs.

3. Chronic conditions, congenital anomalies or disorders, and hereditary disorders and the way pet insurance policies address those conditions or disorders.

4. Rating, underwriting, renewal, and other related administrative topics.

(11) The commission may adopt rules necessary to administer this section.

Section 4. This act shall take effect January 1, 2026.

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 7003 PCB GOS 25-03	**COMPANION BILL:** None
TITLE: OGSR/Financial Technology Sandbox Applications/OFR	**LINKED BILLS:** None
SPONSOR(S): Sapp	**RELATED BILLS:** None

Committee References

Orig. Comm.: Government Operations (5 Y, 0 N) ➤ Insurance & Banking ➤ State Affairs

SUMMARY

Effect of the Bill:

The bill saves from repeal the public record exemption for specified sensitive business information held by the Office of Financial Regulation to evaluate a Financial Technology Sandbox application. The public record exemption will repeal on October 2, 2025, if the bill does not become a law.

Fiscal or Economic Impact:

None.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill removes the scheduled repeal date, created pursuant to the Open Government Sunset Review Act, for the public record exemption for specified sensitive business information provided to and held by the Office of Financial Regulation to evaluate an application to participate in the Financial Technology Sandbox. The public record exemption will repeal on October 2, 2025, if the bill does not become a law. (Section 1)

The effective date of the bill is October 1, 2025. (Section 2)

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR Act)[1] sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[2]

The OGSR Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.

[1] S. 119.15, F.S.
[2] S. 119.15(3), F.S.

- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote are not required.[4]

Financial Technology Sandbox

The Financial Technology Sandbox was created within the Office of Financial Regulation (OFR) 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 intent of the creation of the regulatory sandbox is to provide a welcoming business environment for technology innovators.[5]

Before making an innovative financial product or service[6] available in the Financial Technology Sandbox, a business entity must file an application for licensure with OFR.[7] In the application, the applicant must:[8]

- Specify each general law enumerated in the Financial Technology Sandbox law that prevents the innovative financial product or service from being made available to consumers and the reasons why those provisions of general law prevent the innovative financial product or service from being made available to consumers.
- Submit sufficient information for the OFR to evaluate the following factors and any other factors that the OFR determines to be relevant, including:[9]
    - The nature of the innovative financial product or service proposed to be made available to consumers in the Financial Technology Sandbox, including all relevant technical details.
    - The potential risk to consumers and the methods that will be used to protect consumers and resolve complaints during the sandbox period.
    - The business plan proposed by the applicant, including company information, market analysis, and financial projections or pro forma financial statements, and evidence of the financial viability of the applicant.
    - Whether the applicant has the necessary personnel, adequate financial and technical expertise, and a sufficient plan to test, monitor, and assess the innovative financial product or service.
    - Whether any control person of the applicant, regardless of adjudication, has pled no contest to, has been convicted or found guilty of, or is currently under investigation for fraud, a state or federal securities violation, a property-based offense, or a crime involving moral turpitude or dishonest dealing.
    - A copy of specified consumer disclosures that will be provided to consumers.
    - The financial responsibility of the applicant and any control person, including whether the applicant or any control person has a history of unpaid liens, unpaid judgments, or other general history of nonpayment of legal debts.
- Include evidence that the business entity has authorized the person to submit the application on behalf of the business entity intending to make an innovative financial product or service available to consumers.
- Specify the maximum number of consumers to whom the applicant proposes to provide the innovative financial product or service.
- Include a proposed draft of the statement or statements which the applicant proposes to provide to consumers.

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[3] S. 119.15(6)(b), F.S.
[4] Art. I, s. 24(c), FLA. CONST.
[5] S. 559.952(2), F.S.
[6] S. 559.952(3)(f), F.S. defines the term "financial product or service" as a product or service related to a consumer finance loan, or a money transmitter or payment instrument seller, including mediums of exchange that are in electronic or digital form, which is subject to the general laws enumerated in the Financial Technology Sandbox law and corresponding rule requirements and which is under the jurisdiction of the OFR.
[7] S. 559.952(5)(b), F.S.
[8] *Id.*
[9] S. 559.952(5)(c), F.S.

OFR must approve or deny the Financial Technology Sandbox application within 60 days after receiving a completed application.[10] Agency rule provides further detail on the application form, fees, and evaluation process.[11]

Public Record Exemption under Review

In 2020, the Legislature created a public record exemption that holds confidential and exempt[12] the following information provided to and held by the OFR in a Financial Technology Sandbox application:[13]

- Reasons why general laws enumerated in the Financial Technology Sandbox law[14] prevent the innovative financial product or service from being made available to consumers.[15]
- Information provided for evaluation of the nature of the innovative financial product or service proposed to be made available to consumers in the Financial Technology Sandbox, including all relevant technical details.[16]
- Information provided for the evaluation of the business plan proposed by the applicant that includes company information, market analysis, and financial projections or pro forma financial statements, and evidence of the financial viability of the applicant.[17]
- Information provided for evaluation of whether the applicant has a sufficient plan to test, monitor, and assess the innovative financial product or service. [18] Such information includes whether the applicant has the necessary personnel and adequate financial and technical expertise.[19]

The confidential and exempt information may be released to the appropriate state and federal agencies for purposes of an investigation. The exemption of the aforementioned information cannot be construed to prevent OFR from disclosing a summary of the innovative product or service.[20]

The 2020 public necessity statement[21] provided that:

> [T]he disclosure of such information could adversely affect the business interests of the Financial Technology Sandbox applicant and could injure the applicant in the marketplace if the information is made available to competitors [and the] divulgence of [such sensitive] information would destroy its value to the business entity potentially causing a financial loss.[22]

Pursuant to the OGSR Act, the exemption will repeal on October 2, 2025, unless reenacted by the Legislature.[23]

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[10] S. 559.952(5)(c), F.S.
[11] R. 69V-559.102, F.A.C.; *see also* r. 69V-559.1012, F.A.C and r. 69V-559.1021, F.A.C.
[12] There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See* Op. Att'y Gen. Fla. 04- 09 (2004).
[13] S. 559.952(5)(h), F.S.
[14] S. 559.952(4)(a), F.S., provides that upon approval of a Financial Technology Sandbox application, certain enumerated provisions in general law and corresponding rule requirements are not applicable to the licensee during the sandbox period. Sandbox period is the initial 24-month period in which the office has authorized a licensee to make an innovative financial product or service available to consumers, and any granted extension.
[15] S. 559.952(5)(h)1.a, F.S.
[16] S. 559.952(5)(h)1.b, F.S.
[17] *Id.*
[18] S. 559.952(5)(h)1.c, F.S.
[19] S. 559.952(5)(c)4, F.S.
[20] S. 559.952(5)(h), F.S.
[21] Art. I, s. 24(c), FLA. CONST., requires each public record exemption to "state with specificity the public necessity justifying exemption."
[22] Ch. 2020-162, L.O.F.
[23] S. 559.952(5)(h)2, F.S.

During the 2024 interim, House and Senate committee staff met jointly with staff from the OFR to discuss the public record exemption under review. OFR staff indicated that they had no issue interpreting or applying the exemption and were unaware of any litigation concerning the exemption. OFR staff recommended reenacting the exemption as is.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Orig. Comm.: Government Operations Subcommittee	5 Y, 0 N	2/18/2025	Toliver	Villa
Insurance & Banking Subcommittee			Lloyd	Schenk
State Affairs Committee				

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 559.952, F.S., which provides an exemption from public record requirements for certain information held by the Office of Financial Regulation in Financial Technology Sandbox applications; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (h) of subsection (5) of section 559.952, Florida Statutes, is amended to read:

559.952 Financial Technology Sandbox.—

(5) FINANCIAL TECHNOLOGY SANDBOX APPLICATION; STANDARDS FOR APPROVAL.—

(h)~~1.~~ The following information provided to and held by the office in a Financial Technology Sandbox application under this subsection is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1.~~a.~~ The reasons why a general law enumerated in paragraph (4)(a) prevents the innovative financial product or service from being made available to consumers.

2.~~b.~~ The information provided for evaluation of the factors specified in subparagraphs (c)1. and 3.

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

3.~~c.~~ The information provided for evaluation of whether the applicant has a sufficient plan to test, monitor, and assess the innovative financial product or service, under subparagraph (c)4.

However, the confidential and exempt information may be released to appropriate state and federal agencies for the purposes of investigation. Nothing in this paragraph shall be construed to prevent the office from disclosing a summary of the innovative financial product or service.

~~2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2025.

PCS for HB 147

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: PCS for HB 147	**COMPANION BILL:** None
TITLE: Prohibited Practices in Consumer Debt Collection	**LINKED BILLS:** None
SPONSOR(S): Insurance & Banking Subcommittee	**RELATED BILLS:** None

Committee References

Orig. Comm.: Insurance & Banking

SUMMARY

Effect of the Bill:

The bill provides that prohibited debt collection practices apply unless otherwise authorized by law. Additionally, the bill creates an exception to the prohibition on contacting a debtor between the hours of 9:00 p.m. and 8:00 a.m. The bill permits emails to be sent and received during those hours. The bill also removes referenced examples of telephone communications, so that the time of the communication is measured for the purpose of the violation and not the form of communication.

Fiscal or Economic Impact:

None

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill provides that prohibited debt collection practices apply unless otherwise authorized by law. Additionally, the bill creates an exception to the prohibition on contacting a debtor between the hours of 9:00 p.m. and 8:00 a.m. The bill permits emails to be sent and received during those hours. The bill also removes referenced examples of telephone communications, so that the time of the communication is measured for the purpose of the violation and not the form of the communication.

The bill reenacts the following statutes for the purpose of incorporating the bill's amendment to section 559.72, F.S.:

- Subsection (2) of section 559.565, F.S.
- Subsection (2) of section 559.725, F.S.
- Subsections (1) and (2) of section 559.77, F.S.
- Paragraph (o) of subsection (1) of section 648.44, F.S.
- Paragraph (b) of subsection (2) of section 817.7001, F.S.

The bill is effective upon becoming law.

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

Creditors may see increased collections to the extent that the permitted emails are effective at facilitating collection activity.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

The Florida Consumer Collection Practices Act (FCCPA)

The FCCPA prohibits certain practices by any person attempting to collect a debt.[1] It serves as Florida's counterpart to the federal Fair Debt Collection Practices Act (FDCPA) and aims to eliminate abusive and harassing debt collection tactics.[2] Under the FCCPA, debt collectors[3] are prohibited from using or threatening violence[4], using profane or vulgar language[5], or attempting to enforce an illegitimate debt.[6]

Among the list of prohibited practices, collectors may not communicate with a debtor between 9 p.m. and 8 a.m. in the debtor's time zone without the debtor's prior consent.[7] However, the current version of the statute does not specify the types of communication restricted during these hours. Although it does provide two situations in which the presumed time of a telephone call may be calculated in reference to the time zone of the caller and the recipient. Since these only reference telephone calls and not all types communications, it may be unclear how this applies to other types of communication or if it limits the application only to telephone calls.

The Fair Debt Collection Practices Act

The FDCPA[8] was enacted in March 1978 to eliminate abusive, deceptive, and unfair debt collection practices.[9] Under 12 C.F.R. § 1006.06(b)(1)(i), a debt collector may not communicate or attempt to communicate with a consumer about a debt at an unusual or inconvenient time unless the consumer provides prior consent or the communication is permitted by a court. In the absence of specific knowledge to the contrary, the law presumes that contacting a consumer before 8:00 a.m. or after 9:00 p.m. local time is inconvenient.[10] While email[11] and text communications[12] are permitted under the FDCPA, debt collectors must provide consumers with a reasonable and simple method to opt out of such communications.[13]

Recent Litigation

The U.S. District Court for the Southern District of Florida recently addressed the meaning of "communicate with" a consumer under the FCCPA.[14] In this case, the plaintiff sued a debt collector for sending an email at 8:23 p.m., which was delivered to her at 10:14 p.m. and remained unread until 11:44 a.m. the following day.[15] The plaintiff argued that this constituted a violation of s. 559.72(17), F.S., which prohibits communication with a debtor between 9 p.m. and 8 a.m.[16]

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[1] "Debt collector" means any person who uses any instrumentality of commerce within this state, whether initiated from within or outside this state, in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The term "debt collector" includes any creditor who, in the process of collecting her or his own debts, uses any name other than her or his own which would indicate that a third person is collecting or attempting to collect such debts. S. 559.55(7), F.S.

[2] The Consumer Prot. Law Comm. of the Florida Bar, *The Consumer Law Bench Book*, p. 46, available at https://www.floridabar.org/about/cmtes/cmte-cm410/cplc-bench-manual/ (last visited Feb. 12, 2025).

[3] "Debt" or "consumer debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgement. S. 559.55(6), F.S.

[4] S. 559.72(2), F.S.

[5] S. 559.72(8), F.S.

[6] S. 559.72(9), F.S.

[7] S. 559.72(17), F.S.

[8] 15 U.S.C. § 1692 et seq.

[9] The Fed. Rsrv., *Consumer Compliance Handbook*, available at https://www.federalreserve.gov/boarddocs/supmanual/cch/fairdebt.pdf, (last visited Feb. 12, 2025).

[10] 12 C.F.R. § 1006.06(b)(1)(i).

[11] 12 C.F.R. § 1006.06(d)(4).

[12] 12 C.F.R. § 1006.06(d)(5).

[13] 12 C.F.R. § 1006.06(d)(4)(ii)(4).

[14] *Quinn-Davis v. TrueAccord Corp.*, Case No. 1:23-cv-23590-LEIBOWITZ/REID (S.D. Fla. Nov. 20, 2024).

[15] *Id*.

[16] *Id*. at 2

With no binding precedent on point, the court ruled that an email does not constitute communication "with" a consumer until the consumer either reads or at least receives the message.[17] Under this Court's interpretation, the debt collector did not "communicate" with the plaintiff until 11:44 a.m., when she actually read the email.[18] As a result, the court granted the defendant's motion for summary judgment.[19]

Since this case addressed a previously unresolved legal question, future Florida courts or other federal district courts may interpret the issue differently. Notably, the court's ruling also diverges from the Consumer Financial Protection Bureau's interpretation under the FDCPA, which takes a broader view of what it means to "communicate with" a debtor.[20]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Orig. Comm.: Insurance & Banking Subcommittee			Lloyd	Schenk

[17] *Id*.
[18] *Id*. at 7.
[19] Id. at 9.
[20] *Id.* at 5. ("The CFPB interprets 'communicate with' under the FDCPA to mean that a debt collector communicates with a customer when the debt collector 'sends' an electronic communication.").

A bill to be entitled

An act relating to prohibited practices in consumer debt collection; amending s. 559.72, F.S.; revising prohibited practices for a person attempting to collect consumer debt; making a technical change; reenacting ss. 559.565(2), 559.725(2), 559.77(1) and (2), 648.44(1)(o), and 817.7001(2)(b), F.S., relating to enforcement action against out-of-state consumer debt collector, consumer complaints and administrative duties, civil remedies, prohibitions and penalties, and definitions, respectively, to incorporate the amendment made to s. 559.72, F.S., in references thereto; providing an effective date.

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

Section 1. Section 559.72, Florida Statutes, is amended to read:

559.72 Prohibited practices generally.—Unless otherwise authorized by law, in collecting consumer debts, a ~~no~~ person may not ~~shall~~:

(1) Simulate in any manner a law enforcement officer or a representative of any governmental agency.

(2) Use or threaten force or violence.

(3) Tell a debtor who disputes a consumer debt that she or

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he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed as required by subsection (6).

(4) Communicate or threaten to communicate with a debtor's employer before obtaining final judgment against the debtor, unless the debtor gives her or his permission in writing to contact her or his employer or acknowledges in writing the existence of the debt after the debt has been placed for collection. However, this does not prohibit a person from telling the debtor that her or his employer will be contacted if a final judgment is obtained.

(5) Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false.

(6) Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact. If a disclosure is made before such dispute has been asserted and written notice is received from the debtor that any part of the debt is disputed, and if such dispute is reasonable, the person who made the original

disclosure must reveal upon the request of the debtor within 30 days the details of the dispute to each person to whom disclosure of the debt without notice of the dispute was made within the preceding 90 days.

(7) Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family.

(8) Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family.

(9) Claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate, or assert the existence of some other legal right when such person knows that the right does not exist.

(10) Use a communication that simulates in any manner legal or judicial process or that gives the appearance of being authorized, issued, or approved by a government, governmental agency, or attorney at law, when it is not.

(11) Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments that only attorneys are authorized to prepare.

(12) Orally communicate with a debtor in a manner that gives the false impression or appearance that such person is or

is associated with an attorney.

(13) Advertise or threaten to advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.

(14) Publish or post, threaten to publish or post, or cause to be published or posted before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.

(15) Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents if requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt.

(16) Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor. An example of this would be an envelope addressed to "Deadbeat, Jane Doe" or "Deadbeat, John Doe."

(17) Communicate with the debtor, except by email, via a communication sent and received, as provided in s. 668.50(15), between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor.

~~(a)~~ The person may presume that the time a ~~telephone call~~ communication is received conforms to the local time zone assigned to the record address ~~area code~~ of the debtor ~~number~~

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

~~called~~, unless the person reasonably believes that the debtor's telephone is located in a different time zone.

~~(b) If, such as with toll-free numbers, an area code is not assigned to a specific geographic area, the person may presume that the time a telephone call is received conforms to the local time zone of the debtor's last known place of residence, unless the person reasonably believes that the debtor's telephone is located in a different time zone~~.

(18) Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the debtor's attorney fails to respond within 30 days to a communication from the person, unless the debtor's attorney consents to a direct communication with the debtor, or unless the debtor initiates the communication.

(19) Cause a debtor to be charged for communications by concealing the true purpose of the communication, including collect telephone calls and telegram fees.

Section 2. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, subsection (2) of section 559.565, Florida Statutes, is reenacted to read:

559.565 Enforcement action against out-of-state consumer debt collector.—The remedies of this section are cumulative to

other sanctions and enforcement provisions of this part for any violation by an out-of-state consumer debt collector, as defined in s. 559.55(11).

(2) A person, whether or not exempt from registration under this part, who violates s. 559.72 is subject to sanctions the same as any other consumer debt collector, including imposition of an administrative fine. The registration of a duly registered out-of-state consumer debt collector is subject to revocation or suspension in the same manner as the registration of any other registrant under this part.

Section 3. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, subsection (2) of section 559.725, Florida Statutes, is reenacted to read:

559.725 Consumer complaints; administrative duties.—

(2) The office shall inform and furnish relevant information to the appropriate regulatory body of the state or the Federal Government, or The Florida Bar in the case of attorneys, if a person has been named in a consumer complaint pursuant to subsection (3) alleging violations of s. 559.72. The Attorney General may take action against any person in violation of this part.

Section 4. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in references thereto, subsections (1) and (2) of section 559.77,

Florida Statutes, are reenacted to read:

559.77 Civil remedies.—

(1) A debtor may bring a civil action against a person violating the provisions of s. 559.72 in the county in which the alleged violator resides or has his or her principal place of business or in the county where the alleged violation occurred.

(2) Any person who fails to comply with any provision of s. 559.72 is liable for actual damages and for additional statutory damages as the court may allow, but not exceeding $1,000, together with court costs and reasonable attorney's fees incurred by the plaintiff. In determining the defendant's liability for any additional statutory damages, the court shall consider the nature of the defendant's noncompliance with s. 559.72, the frequency and persistence of the noncompliance, and the extent to which the noncompliance was intentional. In a class action lawsuit brought under this section, the court may award additional statutory damages of up to $1,000 for each named plaintiff and an aggregate award of additional statutory damages up to the lesser of $500,000 or 1 percent of the defendant's net worth for all remaining class members; however, the aggregate award may not provide an individual class member with additional statutory damages in excess of $1,000. The court may award punitive damages and may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations of this part. If the court

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finds that the suit fails to raise a justiciable issue of law or fact, the plaintiff is liable for court costs and reasonable attorney's fees incurred by the defendant.

Section 5. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, paragraph (o) of subsection (1) of section 648.44, Florida Statutes, is reenacted to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or bail bond agency may not:

(o) Attempt to collect, through threat or coercion, amounts due for the payment of any indebtedness related to the issuance of a bail bond in violation of s. 559.72.

Section 6. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 817.7001, Florida Statutes, is reenacted to read:

817.7001 Definitions.—As used in this part:

(2)

(b) "Credit service organization" does not include:

1. Any person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States or a lender approved by the United States Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act;

2. Any bank, savings bank, or savings and loan association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or a subsidiary of such bank, savings bank, or savings and loan association;

3. Any credit union, federal credit union, or out-of-state credit union doing business in this state;

4. Any nonprofit organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code;

5. Any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license;

6. Any person collecting consumer claims pursuant to s. 559.72;

7. Any person licensed to practice law in this state if the person renders services within the course and scope of his or her practice as an attorney and does not engage in the credit service business on a regular and continuing basis;

8. Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of that regulation; or

9. Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681t.

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

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