Insurance & Banking Subcommittee

Thursday, April 10, 2025
9:00 AM - 11:00 AM
Morris Hall (17 HOB)

Meeting Packet

Daniel Perez
Speaker

Bradford Yeager
Chair

The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

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Meeting Agenda

Thursday, April 10, 2025
9:00 am – 11:00 am
Morris Hall (17 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- HB 487 Investments of Public Funds in Bitcoin by Barnaby
- HB 1433 Hurricane Mitigation Grants and Insurers' Regulations by Benarroch
- HB 7011 OGSR/Records of Insurers/Department of Financial Services by Government Operations Subcommittee, Gentry

V. Closing Remarks

VI. Adjournment

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 487	**COMPANION BILL:** SB 550 (Gruters)
TITLE: Investments of Public Funds in Bitcoin	**LINKED BILLS:** None
SPONSOR(S): Barnaby	**RELATED BILLS:** None

Committee References

Insurance & Banking ➤ Government Operations ➤ Ways & Means ➤ Commerce

SUMMARY

Effect of the Bill:

The bill authorizes the Chief Financial Officer (CFO) to invest in Bitcoin with monies from several funds and authorizes trustees of the State Board of Administration to invest Retirement System Trust Fund money in Bitcoin. The bill caps Bitcoin investments at 10% of the total funds in any account and establishes requirements for holding Bitcoin.

The bill authorizes the CFO and other approved parties to loan acquired Bitcoin to generate additional returns, if doing so does not increase financial risk.

The bill also:
- Creates a mechanism for handling taxes or fees paid to the state in Bitcoin.
- Exempts Bitcoin investments from certain security requirements that apply to public deposits.

Fiscal or Economic Impact:

Indeterminate fiscal impact.

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ANALYSIS

EFFECT OF THE BILL:

Authorization for Bitcoin Investment

The bill authorizes the Chief Financial Officer (CFO) to invest public funds in Bitcoin.[1] Investments are allowed from several funds, including: (Section 1 and Section 2 and Section 3).
- The General Revenue Fund.
- The Budget Stabilization Fund.
- Trust funds and agency funds of state agencies and the judicial branch.
- Funds of constitutional or statutory boards and associations (upon request).
- Other state funds deemed appropriate by the Legislature.

The bill also authorizes the Trustees of the State Board of Administration (SBA) to invest Florida Retirement System Trust Fund money in Bitcoin. (Section 4).

[1] The bill defines Bitcoin as the decentralized digital currency launched in 2009, including the digital asset underlying Bitcoin ETPs regulated by the SEC.

Investment Limits and Holding Requirements

For both the CFO and the SBA, the bill caps Bitcoin investments at 10% of the total funds in any account. Under the bill, Bitcoin must be held in one of three ways:

- Directly by the CFO or SBA through a secure custody solution;[2]
- On behalf of the state or SBA by a qualified custodian; or
- As an exchange-traded product[3] (ETP) issued by an investment company registered with the Securities and Exchange Commission. (Sections 1 and 4).

Additional Bitcoin Functions

The bill authorizes the CFO and other approved parties to loan acquired Bitcoin to generate additional returns (if doing so "does not increase financial risk"). The CFO is required to established rules governing such loans. (Section 1).

The bill also creates a mechanism for handling taxes or fees paid to the state in Bitcoin, requiring (Section 1):

- Transfer of Bitcoin payments to the General Revenue Fund; and
- Reimbursement from the General Revenue Fund to the designated fund in U.S. currency.

Security Requirement Exemptions (Section 5).

The bill exempts Bitcoin investments from certain security requirements that apply to public deposits under ch. 280, F.S.

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

RULEMAKING:

The bill grants rulemaking authority to the CFO to implement provisions of the bill governing loans of Bitcoin, which are allowed by the bill to generate additional returns if such transactions do not increase financial risk.

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:

Indeterminate. To the extent there is a fiscal impact, such impact is limited by the bill's ten percent caps on investment in Bitcoin.

PRIVATE SECTOR:

Private investment companies holding Bitcoin, and private enterprises in the business of facilitating transactions in Bitcoin, may benefit from increased state adoption of Bitcoin.

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[2] The bill defines a secure custody solution as a technological custody system with specific security requirements, including:

- Private keys exclusively known to and accessible by the government entity.
- Keys stored in encrypted environments, never on smartphones.
- Hardware stored in geographically diverse secure data centers.
- Multiparty governance structure for transaction and authorization.
- Disaster recovery protocols.
- Regular security audits.

[3] The bill defines exchange-traded products as SEC/CFTC/DFS-approved financial instruments traded on national exchanges.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Digital Currency

Digital currency is a virtual representation of a value, stored in electronic form, that is not available in physical form but which can be used as a medium of exchange, a unit of account, or a store of value.[4] Digital currencies can be issued in two ways: centralized (that is, issued by a central bank or sovereign nation as a digital representation of a certain denomination of currency) and decentralized (that is, not issued by a central bank or sovereign nation).[5] Most digital currencies are privately issued and thus are decentralized digital currencies.

Digital currencies are stored in digital wallets, typically software or apps installed by users on their computer or mobile device. Each digital wallet contains encrypted information that is used to send and receive the digital currency. Digital currency transactions are recorded in a virtual public ledger called the "blockchain," which is maintained by digital currency "miners." Miners receive digital currency in exchange for verifying each transaction and adding it to the blockchain.[6]

Bitcoin

Bitcoin is a decentralized digital currency created in 2009.[7] It is global and limited to 21 million units total.[8] Like other decentralized digital currencies, it is not issued or backed by a government or central bank, and users can store Bitcoin online through exchanges or more securely using private keys.[9]

Bitcoin is generally treated as property by the Internal Revenue Service[10] and as a commodity by the Commodities Futures Trading Commission.[11] Historically, it has not been deemed a security subject to federal regulation by the U.S. Securities and Exchange Commission.[12]

Chief Financial Officer (CFO) Investment Functions

Florida's CFO oversees the state's accounting, auditing, and investment functions.[13] Under current law, the CFO is responsible for investing general revenue funds, trust funds, agency funds of each state agency and the judicial branch, and may upon request invest funds of any board, association, or entity created by the State Constitution or by law, except for funds required to be invested by the SBA.[14]

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[4] Westlaw, *Definition of virtual currency*, https://1.next.westlaw.com/Document/I1c0f4fc4505011e89bf199c0ee06c731/View/FullText.html?ppcid=d154a21215fa49b2b97bc6db2c6392a5&originationContext=knowHow&transitionType=KnowHowItem&contextData=%28sc.Default%29 (last visited April 19, 2023).

[5] Yang, Zhou, *A study on the influence mechanism of CBDC on monetary policy: An analysis based on e-CNY*, https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0268471 (last visited April 19, 2023); Westlaw, *Definition of central bank digital currency, https://1.next.westlaw.com/w-032-2803?VR=3.0&RS=cblt1.0&__lrTS=20230323210728711&transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1* (last visited April 19, 2023).

[6] NCSL, *Cryptocurrency, Digital or Virtual Currency and Digital Assets 2025 Legislation*, https://www.ncsl.org/financial-services/cryptocurrency-digital-or-virtual-currency-and-digital-assets-2025-legislation (last visited April 8, 2025)

[7] Samara Cohen et al., *Bitcoin: A Unique Diversifier*, BlackRock, https://www.blackrock.com/us/financial-professionals/literature/whitepaper/bitcoin-a-unique-diversifier.pdf (last visited March 17, 2025).

[8] *Id. See also* NCSL, *supra* note 6.

[9] *Id.*

[10] Internal Revenue Service, *Digital assets*, https://www.irs.gov/filing/digital-assets, (last visited March 17, 2025) ("For U.S. tax purposes, digital assets are considered property, not currency. … Examples of digital assets … include … Bitcoin … .").

[11] U.S. Commodity Futures Trading Commission, *Bitcoin Basics*, https://www.cftc.gov/sites/default/files/idc/groups/public/%40customerprotection/documents/file/oceo_bitcoinbasics0218.pdf (last visited March 17, 2025) ("[V]irtual currencies, such as Bitcoin, have been determined to be commodities under the Commodity Exchange Act (CEA).").

[12] *See* Ankush Khardori, *Can Gary Gensler Survive Crypto Winter? D.C.'s top financial cop on Bankman-Fried blowback.* (Feb. 23, 2023), https://nymag.com/intelligencer/2023/02/gary-gensler-on-meeting-with-sbf-and-his-crypto-crackdown.html,

[13] *See* Florida Department of Financial Services, *About the Agency*, https://myfloridacfo.com/about/meet-the-cfo (last visited April 8, 2025).

[14] S. 17.61, F.S.

State Board of Administration (SBA)

The SBA is composed of the Governor as chair, the CFO, and the Attorney General.[15] The SBA is directed by statute to invest all funds in the System Trust Fund, and all other funds under the Board's scope, to the fullest extent that is consistent with the cash requirements, trust agreement, and investment objectives of the fund.

Florida Retirement System Trust Fund

The Florida Retirement System (FRS) Trust Fund contains the pension funds for Florida's public employees.[16] The fund is one of the largest public pension funds in the United States.[17] The fund manages over $200 billion in assets and provides retirement benefits for more than 600,000 active employees and over 400,000 retirees and beneficiaries.[18] These include state employees, county government employees, public school teachers, university and community college faculty and staff, and employees of cities and special districts that have elected to join the system.

The SBA is responsible for managing the FRS Trust Fund's investments.[19] The SBA employs professional investment managers who work to maximize returns while managing risk appropriately for a pension fund.[20]

Under Florida law, the SBA must invest the trust fund's assets according to specific guidelines, particularly those in ss. 215.44-215.53, F.S. These laws typically establish investment criteria focused on security, diversification, and reasonable returns.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Hamon	Schenk
Government Operations Subcommittee				
Ways & Means Committee				
Commerce Committee				

[15] S. 215.44, F.S.
[16] FRS Pension Plan, Florida State Board of Administration, https://www.sbafla.com/funds/frs-pension-plan/ (last visited March 17, 2025).
[17] *Id.*
[18] Department of Management Services – Division of Retirement, https://www.dms.myflorida.com/workforce_operations/retirement (last visited March 17, 2025).
[19] *See* Florida State Board of Administration, *SBA 2023-2024 Investment Report* at 12, https://www.sbafla.com/media/zxxprkng/2023-2024-air-draft3625-final-updated.pdf (last visited March 17, 2025).
[20] *See id.* at 21.

A bill to be entitled

An act relating to investments of public funds in Bitcoin; creating s. 17.573, F.S.; providing definitions; authorizing the Chief Financial Officer to make investments in Bitcoin; authorizing the Chief Financial Officer to invest money from certain public funds; providing limits to such investments; providing requirements for holding acquired Bitcoin; authorizing the Chief Financial Officer and other parties to loan Bitcoin under specified circumstances; requiring rules governing such loans; requiring taxes and fees paid in Bitcoin to be transferred to the General Revenue Fund; requiring the General Revenue Fund to reimburse designated funds in United States currency for such payments; amending ss. 17.57 and 17.61, F.S.; conforming provisions to changes made by the act; amending s. 121.151, F.S.; authorizing the Trustees of the State Board of Administration to invest and reinvest available funds of the System Trust Fund in Bitcoin; providing requirements for such investments; providing definitions; amending s. 280.03, F.S.; providing that investments of public funds in Bitcoin are exempt from certain security requirements; providing an effective date.

WHEREAS, inflation has eroded the purchasing power of assets held in state funds managed by the Chief Financial Officer and this erosion diminishes the value of the state's reserves, affecting the financial stability and economic security of this state, its taxpayers, and its residents, and

WHEREAS, although this state does not have direct control over the national money supply or the policies that influence inflation, it has a responsibility to safeguard Florida's financial resources against the impacts of inflation and other economic uncertainties, and

WHEREAS, throughout its history, Bitcoin has greatly risen in value and is becoming more widely accepted as an international medium of exchange, and countries around the world, including the United States, hold Bitcoin within their treasury departments, and

WHEREAS, Bitcoin is viewed as a hedge against inflation by sovereign nations and prominent investment advisors, including BlackRock, Fidelity, and Franklin Templeton, and

WHEREAS, this state should have access to tools such as Bitcoin to protect against inflation, NOW, THEREFORE,

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

Section 1. Section 17.573, Florida Statutes, is created to read:

17.573 Investments in Bitcoin.—

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

(a) "Bitcoin" means the decentralized digital currency launched in 2009 which allows online payments to be sent directly from one party to another without going through a financial institution. The term includes the digital asset underlying Bitcoin exchange-traded products regulated by the Securities and Exchange Commission.

(b) "Exchange-traded product" means a financial instrument approved by the Securities and Exchange Commission, the Commodity Futures Trading Commission, or the Department of Financial Services which is traded on a national stock exchange and derives its value from an underlying pool of assets, including stocks, bonds, commodities, and indexes.

(c) "Private key" means a unique element of cryptographic data used for signing transactions on a blockchain, known only to the owner.

(d) "Secure custody solution" means a technological product or blended product and service meeting all of the following criteria:

1. The cryptographic private keys are:

a. Exclusively known by and accessible to the governmental entity.

b. Contained within an encrypted environment and accessible only via end-to-end encrypted channels.

c. Never stored on or accessible via a smartphone.

2. The hardware containing the cryptographic private keys is maintained in at least two geographically diverse, secure data centers.

3. A multiparty governance structure for authorizing transactions is implemented, user access control is enforced, and all user-initiated actions are logged.

4. The provider of the technological product or blended product and service has implemented a disaster recovery protocol ensuring access to assets if the provider becomes unavailable.

5. The technological product or blended product and service undergoes regular code audits and penetration testing, with identified vulnerabilities promptly addressed.

(e) "Qualified custodian" means a federal bank, a Florida state-chartered bank, a trust company, a special-purpose depository institution, or a company regulated by this state which provides custody services for Bitcoin as part of an approved exchange-traded product.

(2) The Chief Financial Officer may:

(a) Include Bitcoin and potentially other digital assets to serve as stores of value and provide a hedge against inflation, thereby protecting the purchasing power of state funds.

(b) Ensure that the investment strategies employed by the Chief Financial Officer align with the goal of enhancing this

state's economic security and financial resilience.

(c) Maintain flexibility in investment decisions to respond to changing economic conditions and emerging opportunities that may offer better protection or returns on state funds.

(3)(a)1. The Chief Financial Officer may invest money in Bitcoin from the following funds:

a. The General Revenue Fund.

b. The Budget Stabilization Fund.

c. All the trust funds and all agency funds of each state agency, and of the judicial branch, as defined in s. 216.011.

d. Funds of any board, association, or entity created by the State Constitution or by law upon request of the board, association, or entity.

e. Any other state fund deemed appropriate by the Legislature.

2. The amount of public funds that the Chief Financial Officer may invest in Bitcoin may not exceed 10 percent of the total funds in any account.

(b)1. The Bitcoin acquired under paragraph (a) shall be held:

a. Directly by the Chief Financial Officer through the use of a secure custody solution;

b. On behalf of this state by a qualified custodian; or

c. In the form of an exchange-traded product issued by an

investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended.

2. The Chief Financial Officer, and other parties with the permission of the Chief Financial Officer, may loan the Bitcoin in state funds to generate additional returns for this state if such loans do not increase financial risk. The Chief Financial Officer shall adopt rules governing such loans.

(4) Taxes or fees paid to this state in Bitcoin shall be transferred to the General Revenue Fund. The General Revenue Fund shall reimburse the designated fund for the value of the Bitcoin payment in United States currency for such taxes or fees.

Section 2. Paragraph (b) of subsection (1) and subsections (2) and (7) of section 17.57, Florida Statutes, are amended to read:

17.57 Deposits and investments of state money.—

(1)

(b) The Chief Financial Officer, or other parties with the permission of the Chief Financial Officer, shall:

1. Deposit the money of the state or any money in the State Treasury in such qualified public depositories of the state as will offer satisfactory collateral security for such deposits, pursuant to chapter 280; or

2. Invest the money of the state or any money in the State Treasury in Bitcoin pursuant to s. 17.573 and deposit the rest

of the money of the state and the State Treasury in the qualified public depositories described in subparagraph 1.

It is the duty of the Chief Financial Officer, consistent with the cash requirements of the state, to keep such money fully invested or deposited as provided herein in order that the state may realize maximum earnings and benefits. Nothing in this section shall preclude credit unions designated as public depositories from participation.

(2)(a) The Chief Financial Officer shall make funds available to meet the disbursement needs of the state. Funds which are not needed for this purpose shall be:

1. Placed in qualified public depositories that will pay rates established by the Chief Financial Officer at levels not less than the prevailing rate for United States Treasury securities with a corresponding maturity; or

2. Invested in Bitcoin pursuant to s. 17.573, and the rest of the funds placed in the qualified public depositories described in subparagraph 1.

(b) In the event money is available for interest-bearing time deposits or savings accounts as provided herein and qualified public depositories are unwilling to accept such money and pay thereon the rates established above, then such money which qualified public depositories are unwilling to accept shall be invested in:

1. ~~(a)~~ Direct United States Treasury obligations.

2. ~~(b)~~ Obligations of the Federal Farm Credit Banks.

3. ~~(c)~~ Obligations of the Federal Home Loan Bank and its district banks.

4. ~~(d)~~ Obligations of the Federal Home Loan Mortgage Corporation, including participation certificates.

5. ~~(e)~~ Obligations guaranteed by the Government National Mortgage Association.

6. ~~(f)~~ Obligations of the Federal National Mortgage Association.

7. ~~(g)~~ Commercial paper of prime quality of the highest letter and numerical rating as provided for by at least one nationally recognized rating service.

8. ~~(h)~~ Time drafts or bills of exchange drawn on and accepted by a commercial bank, otherwise known as "bankers acceptances," which are accepted by a member bank of the Federal Reserve System having total deposits of not less than $400 million or which are accepted by a commercial bank which is not a member of the Federal Reserve System with deposits of not less than $400 million and which is licensed by a state government or the Federal Government, and whose senior debt issues are rated in one of the two highest rating categories by a nationally recognized rating service and which are held in custody by a domestic bank which is a member of the Federal Reserve System.

9. ~~(i)~~ Corporate obligations or corporate master notes of

any corporation within the United States, if the long-term obligations of such corporation are rated by at least two nationally recognized rating services in any one of the four highest classifications. However, if such obligations are rated by only one nationally recognized rating service, then the obligations shall be rated in any one of the two highest classifications.

10.~~(j)~~ Obligations of the Student Loan Marketing Association.

11.~~(k)~~ Obligations of the Resolution Funding Corporation.

12.~~(l)~~ Mortgage-backed securities of the highest credit quality.

13.~~(m)~~ Asset-backed securities rated by at least two nationally recognized rating services in any one of the three highest classifications. However, if such obligations are rated by only one nationally recognized rating service, the obligations must be rated in any one of the two highest classifications.

14.~~(n)~~ Any obligations not previously listed which are guaranteed as to principal and interest by the full faith and credit of the United States Government or are obligations of United States agencies or instrumentalities which are rated in the highest category by a nationally recognized rating service.

15.~~(o)~~ Commingled no-load investment funds or no-load mutual funds in which all securities held by the funds are

authorized in this subsection.

16. ~~(p)~~ Money market mutual funds as defined and regulated by the Securities and Exchange Commission.

17. ~~(q)~~ Obligations of state and local governments rated in any of the four highest classifications by at least two nationally recognized rating services. However, if such obligations are rated by only one nationally recognized rating service, then the obligations shall be rated in any one of the two highest classifications.

18. ~~(r)~~ Covered put and call options on investment instruments authorized in this subsection for the purpose of hedging transactions by investment managers to mitigate risk or to facilitate portfolio management.

19. ~~(s)~~ Negotiable certificates of deposit issued by financial institutions whose long-term debt is rated in one of the three highest categories by at least two nationally recognized rating services, the investment in which shall not be prohibited by any provision of chapter 280.

20. ~~(t)~~ Foreign bonds denominated in United States dollars and registered with the Securities and Exchange Commission for sale in the United States, if the long-term obligations of such issuers are rated by at least two nationally recognized rating services in any one of the four highest classifications. However, if such obligations are rated by only one nationally recognized rating service, the obligations shall be rated in any

one of the two highest classifications.

21. ~~(u)~~ Convertible debt obligations of any corporation domiciled within the United States, if the convertible debt issue is rated by at least two nationally recognized rating services in any one of the four highest classifications. However, if such obligations are rated by only one nationally recognized rating service, then the obligations shall be rated in any one of the two highest classifications.

22. ~~(v)~~ Securities not otherwise described in this subsection. However, not more than 3 percent of the funds under the control of the Chief Financial Officer shall be invested in securities described in this paragraph.

23. ~~(w)~~ Derivatives of investment instruments authorized in subparagraphs 1.-22 ~~paragraphs (a)-(v)~~.

24. ~~(x)~~ Futures and options on futures, provided the instruments for such purpose are traded on a securities exchange or board of trade regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.

25. Bitcoin pursuant to s. 17.573.

These investments may be in varying maturities and may be in book-entry form. Investments made pursuant to this subsection may be under repurchase agreement or reverse repurchase agreement. The Chief Financial Officer may hire registered investment advisers and other consultants to assist in

investment management and to pay fees directly from investment earnings. Investment securities, proprietary investment services related to contracts, performance evaluation services, investment-related equipment or software used directly to assist investment trading or investment accounting operations including bond calculators, telerates, Bloombergs, special program calculators, intercom systems, and software used in accounting, communications, and trading, and advisory and consulting contracts made under this section are exempt from the provisions of chapter 287.

(7) In addition to the deposits authorized under this section and notwithstanding any other provisions of law, funds that are not needed to meet the disbursement needs of the state may be deposited, or invested under s. 17.573 and the rest of the funds which is not invested under s. 17.573 may be deposited, by the Chief Financial Officer in accordance with the following conditions for fund deposits:

(a) The funds are initially deposited in a qualified public depository, as defined in s. 280.02, selected by the Chief Financial Officer.

(b) The selected depository arranges for depositing the funds in financial deposit instruments insured by:

1. The Federal Deposit Insurance Corporation in one or more federally insured banks or savings and loan associations, wherever located, for the account of the state.

2. For credit unions designated as qualified public depositories, the National Credit Union Share Insurance Fund.

(c) The full amount of the principal and accrued interest of each financial deposit instrument is insured by the Federal Deposit Insurance Corporation or, for credit unions designated as qualified public depositories, the National Credit Union Share Insurance Fund.

(d) The selected depository acts as custodian for the state with respect to each financial deposit instrument issued for its account.

Section 3. Subsection (1) of section 17.61, Florida Statutes, is amended to read:

17.61 Chief Financial Officer; powers and duties in the investment of certain funds.—

(1) The Chief Financial Officer shall invest all general revenue funds and all the trust funds and all agency funds of each state agency, and of the judicial branch, as defined in s. 216.011, and may, upon request, invest funds of any board, association, or entity created by the State Constitution or by law, except for the funds required to be invested pursuant to ss. 215.44-215.53, by the procedure and in the authorized securities or in Bitcoin prescribed in s. 17.57; for this purpose, the Chief Financial Officer may open and maintain one or more demand and safekeeping accounts in any bank or savings association for the investment and reinvestment and the

purchase, sale, and exchange of funds and securities in the accounts. Funds in such accounts used solely for investments and reinvestments shall be considered investment funds and not funds on deposit, and such funds shall be exempt from the provisions of chapter 280. In addition, the securities or investments purchased or held under the provisions of this section and s. 17.57 may be loaned to securities dealers and banks and may be registered by the Chief Financial Officer in the name of a third-party nominee in order to facilitate such loans, provided the loan is collateralized by cash or United States government securities having a market value of at least 100 percent of the market value of the securities loaned. The Chief Financial Officer shall keep a separate account, designated by name and number, of each fund. Individual transactions and totals of all investments, or the share belonging to each fund, shall be recorded in the accounts.

Section 4. Section 121.151, Florida Statutes, is amended to read:

121.151 Investments.—

(1) The Board of Administration, created by authority of the State Constitution, shall invest and reinvest available funds of the System Trust Fund in accordance with the provisions of ss. 215.44-215.53.

(2)(a) The Board of Administration may also invest and reinvest available funds of the System Trust Fund in Bitcoin.

The amount of funds that the board may invest and reinvest in Bitcoin may not exceed 10 percent of the total funds.

(b) The Bitcoin acquired under paragraph (a) shall be held:

1. Directly by the board through the use of a secure custody solution;

2. On behalf of the board by a qualified custodian; or

3. In the form of an exchange-traded product issued by an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended.

(c) As used in this subsection, the terms "Bitcoin," "exchange-traded product," "secure custody solution," and "qualified custodian" have the same meanings as in s. 17.573(1).

Section 5. Paragraph (f) of subsection (3) of section 280.03, Florida Statutes, is amended to read:

280.03 Public deposits to be secured; prohibitions; exemptions.—

(3) The following are exempt from the requirements of, and protection under, this chapter:

(f) Public deposits and investments made in accordance with s. 17.57(7), s. 17.573, or s. 218.415(23).

Section 6. This act shall take effect July 1, 2025.

HB 1433

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 1433	**COMPANION BILL:** CS/SB 1740 (Ingoglia)
TITLE: Hurricane Mitigation Grants and Insurers' Regulations	**LINKED BILLS:** None
SPONSOR(S): Benarroch	**RELATED BILLS:** None

Committee References

Insurance & Banking ➤ Budget ➤ Commerce

SUMMARY

Effect of the Bill:

The bill:

- Provides that a hurricane mitigation grant under the My Safe Florida Home Program may be awarded only for each mitigation improvement that will result in a property insurance premium mitigation credit, discount, or other rate differential and requires the Department of Financial Services to mandate improvements to all openings as a condition of reimbursing a homeowner approved for a grant if determined necessary.
- Increases minimum surplus requirements for certain residential property insurers and provides staggered dates for existing insurers to meet the new requirements.
- Prohibits a person who was an officer or director of an insolvent insurer or the attorney in fact or officer or director of the attorney in fact for an insolvent reciprocal insurer within 5 years of such insolvency from thereafter serving certain leadership roles and prohibits payments to a managing general agent, affiliate, or attorney in fact that has such a person occupying a director, officer, or attorney in fact position until OIR determines the violation has been remedied.

Fiscal or Economic Impact:

None.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Hurricane Mitigation Grants

The bill provides that a hurricane mitigation grant under the My Safe Florida Home Program may be awarded only for each mitigation improvement that will result in a property insurance premium mitigation credit, discount, or other rate differential. (Section 1).

The bill provides that if necessary for the home to qualify for a mitigation credit, discount, or other rate differential, the Department of Financial Services (DFS) is required to mandate improvements to all openings including exterior doors, garage doors, windows, and skylights, as a condition of reimbursing a homeowner approved for a grant. (Section 1).

Surplus Requirement for New Residential Property Insurers (Section 2)

The bill increases the minimum surplus requirement for a new domestic insurer as follows:

- $35 million for an insurer that transacts residential property insurance and is not a wholly owned subsidiary of an insurer domiciled in any other state (up from $15 million).
- $12.5 million for an insurer that only transacts limited sinkhole coverage insurance for personal lines residential property (up from $7.5 million).

- $15 million for an insurer that only transacts residential property insurance in the form of renter's insurance, tenant's coverage, cooperative unit owner insurance, or any combination thereof (up from $10 million).

Surplus Requirement for Residential Property Insurers (Section 4)
The bill provides that the minimum surplus requirement for existing residential property insurers is:

- $35 million for insurers not holding a certificate of authority before July 1, 2025;
- $15 million for insurers holding a certificate of authority before July 1, 2025, and until June 30, 2030;
- $25 million for insurers holding a certificate of authority on or after July 1, 2030, and until June 30, 2035; and
- $35 million for insurers holding a certificate of authority on or after July 1, 2035.

The bill provides that the minimum surplus requirement for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property is:

- $12.5 million for an insurer that does not hold a certificate of authority before July 1, 2025.
- $7.5 million for an insurer holding a certificate of authority before July 1, 2025, and until June 30, 2030
- $10 million for an insurer holding a certificate of authority on or after July 1, 2030 and until June 30, 2035.
- $12.5 million for an insurer holding a certificate of authority on or after July 1, 2025.

Officers and Directors of Insolvent Insurers (Section 3)
The bill amends existing provisions limiting an officer or director of an insurer who served in that capacity within the 2-year period before the date the insurer became insolvent from serving in certain positions of authority to apply to insolvencies that occurred on or after July 1, 2002, but before July 1, 2025.

The bill provides that any person who was an officer or director of an insurer doing business in this state, the attorney in fact of a reciprocal insurer doing business in this state, or an officer or director of an attorney in fact of a reciprocal insurer doing business in this state and who served in that capacity within the 5-year period before the date such insurer or reciprocal insurer became insolvent, for any insolvency that occurs on or after July 1, 2025, may not thereafter do any of the following:

- Serve as an officer or a director of an insurer authorized in this state.
- Serve as an officer or a director of a managing general agent of an insurer authorized in this state.
- Serve as an attorney in fact or as an officer or a director of the attorney in fact of a reciprocal insurer authorized in this state.
- Serve as an officer or a director of an affiliate of an insurer authorized in this state which provides services to such insurer.
- Exercise direct or indirect control through contract, trust, or by operation of law over the selection or appointment of any position specified above.

The bill provides that these prohibitions do not apply if the officer, director, or attorney in fact demonstrates, and the OIR determines, that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

For any violation of the prohibitions described above, OIR must prohibit an insurer or reciprocal insurer authorized in this state from paying any compensation to a managing general agent, affiliate, or attorney in fact that has an officer or director or is an attorney in fact that engaged in such violation until OIR determines the violation has been remedied.

The bill provides an effective date of July 1, 2025. (Section 5).

RELEVANT INFORMATION

SUBJECT OVERVIEW:

My Safe Florida Home Program

Background
In 2006, the Legislature created the My Safe Florida Home Program (MSFH Program) within DFS, with the intent that the MSFH Program provide licensed inspectors to perform inspections for owners of site-built, single-family, residential properties and grants to eligible applicants, subject to the availability of funds.[1] Under the MSFH Program, DFS must develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that may include hurricane mitigation inspections,[2] mitigation grants,[3] and education, consumer awareness, and outreach.[4]

Mitigation Grants
Financial grants under the MSFH Program are intended to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage.[5] For a homeowner to be eligible for a grant, the following criteria must be met:

- The homeowner must have been granted a homestead exemption on the home under ch. 196, F.S.;[6]
- The home must be a dwelling with an insured value of $700,000 or less;[7]
- The home must undergo an acceptable hurricane mitigation inspection under the MSFH Program;
- The building permit application for initial construction of the home must have been made before January 1, 2008; and
- The homeowner must agree to make his or her home available for inspection once a mitigation project is completed.[8]

An application for a grant must contain a signed or electronically verified statement, made under penalty of perjury, that the applicant has submitted only a single application.[9] The application must include attachments that demonstrate the applicant meets the requirements described above.[10]

Residential Property Insurance Mitigation Credits, Discounts, or Other Rate Differentials
Residential property insurance rates must account for mitigation measures undertaken by policyholders to reduce hurricane losses.[11] Specifically, insurer rate filings must include actuarially reasonable discounts, credits, or other rate differentials or appropriate reductions in deductibles to consumers who implement windstorm damage mitigation techniques to their properties.[12] Upon their filing by an insurer or rating organization, the Office of Insurance Regulation (OIR) determines the discounts, credits, and other rate differentials.[13] Windstorm mitigation measures that must be evaluated for purposes of mitigation discounts include fixtures or construction techniques that enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength.[14]

An insurer is required to notify an applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability of each premium discount, credit, other rate differential for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can be or have been installed or implemented.[15] The Financial Services

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[1] S. 215.5586, F.S.
[2] *See* s. 215.5586(1), F.S.
[3] *See* s. 215.5586(2), F.S.
[4] *See* s. 215.5586(3), F.S.
[5] s. 215.5586(2), F.S.
[6] Chapter 196, F.S., relates to, among other things, homestead exemptions.
[7] Homeowners who are low-income persons, as defined s. 420.0004(11), F.S., are exempt from this requirement. The term "low-income persons" is defined by s. 420.0004(11), F.S., as one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80% of the median annual adjusted gross income for households within the state, or 80% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.
[8] S. 215.5586(2)(a), F.S.
[9] s. 215.5586(2), F.S.
[10] *Id.*
[11] S. 627.062(2)(j), F.S.
[12] S. 627.0629(1), F.S.
[13] *Id.*
[14] *Id.*
[15] S. 627.711(1), F.S.

Commission is required to develop a uniform mitigation verification inspection form to be used by all insurers when submitted by policyholders for the purpose of factoring discounts for wind insurance.[16]

Insurance Company Surplus

To transact insurance in Florida, insurers must apply for a certificate of authority and meet certain surplus requirements. The surplus requirements for existing insurers are different than the requirements for new insurers.[17]

Surplus Requirement for New Residential Property Insurers

S. 624.407, F.S. establishes the surplus requirement for new insurers doing business in this state. The minimum surplus requirement for a new domestic insurer that transacts residential property insurance is:

- $15 million if not a wholly owned subsidiary of an insurer domiciled in any other state.[18]
- $50 million if a wholly owned subsidiary of an insurer domiciled in any other state.[19]

The minimum surplus requirement for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property is $7.5 million.[20]

An insurer that only transacts residential property renter's insurance, tenant's coverage, or cooperative unit owner insurance, or any combination thereof, must have a minimum surplus of $10 million.[21]

Surplus Requirement for Existing Residential Property Insurers

S. 624.408, F.S. establishes the surplus requirement for existing insurers doing business in this state. The minimum surplus requirement for existing residential property insurers is:

- $15 million for residential property insurers not holding a certificate of authority before July 1, 2011;
- $5 million for residential property insurers holding a certificate of authority before July 1, 2011, and until June 30, 2016;
- $10 million for residential property insurers holding a certificate of authority on or after July 1, 2016, and until June 30, 2021; and
- $15 million for residential property insurers holding a certificate of authority on or after July 1, 2021.[22]

The minimum surplus requirement for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property is $7.5 million.[23]

The minimum surplus requirement for an insurer that only transacts residential property insurance in the form of renter's insurance, tenant's coverage, cooperative unit owner insurance, or any combination thereof, is $10 million.[24]

Officers and Directors of Insolvent Insurers

The OIR has broad authority to deny, suspend, or revoke an insurer's authority to transact insurance in Florida if it finds the insurer's officers or directors to be: [25]

- Incompetent or untrustworthy;
- So lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance-buying public;
- So lacking in insurance experience, ability, and standing as to jeopardize the reasonable promise of successful operation; or

[16] S. 627.711(2)(a), F.S.
[17] *See* ss. 624.407 and 624.408, F.S.
[18] S. 624.407(1)(e)1, F.S.
[19] S. 624.407(1)(e)2, F.S.
[20] S. 624.407(1)(f), F.S.
[21] S. 624.407(1)(g), F.S.
[22] S. 624.408(1), F.S.
[23] S. 624.408(1)(h), F.S.
[24] S. 624.408(1)(i), F.S.
[25] S. 624.404(3)(a), F.S.

- Affiliated directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relations, with any person or persons whose business operations are or have been marked, to the detriment of policyholders, stockholders, investors, creditors, or the public, by manipulation of assets, accounts, or reinsurance or by bad faith.

The OIR may not grant or continue authority to transact insurance to any insurer if any person, including any subscriber, stockholder, or incorporator, who exercises or has the ability to exercise effective control of the insurer, or who influences or has the ability to influence the transaction of the business of the insurer, does not possess the financial standing and business experience for the successful operation of the insurer.[26]

An officer or director of an insurer who served in that capacity within the 2-year period before the date the insurer became insolvent may not serve as an officer or director of an insurer authorized in this state or have direct or indirect control over the selection or appointment of an officer or director through contract, trust, or by operation of law, unless the officer or director demonstrates to the OIR that his or her personal actions or omissions were not a significant contributing cause to the insolvency.[27] This applies to any insolvency that occurs on or after July 1, 2002, but does not have a definite end date.

OTHER RESOURCES:

My Safe Florida Home

BILL HISTORY

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

[26] S. 624.404(3)(b), F.S.
[27] S. 624.4073, F.S.

A bill to be entitled

An act relating to hurricane mitigation grants and insurers' regulations; amending s. 215.5586, F.S.; revising legislative intent; specifying that hurricane mitigation grants funded through the My Safe Florida Home Program may be awarded only under certain circumstances; requiring the Department of Financial Services to require that certain mitigation improvements be made as a condition of reimbursing a homeowner approved for a grant; amending ss. 624.407 and 624.408, F.S.; increasing the surpluses required for certain insurers applying for their original certificates of authority and maintaining their certificates of authority, respectively; amending s. 624.4073, F.S.; specifying prohibitions for persons who were officers or directors of an insolvent insurer, officers or directors of a managing general agent of an insolvent insurer, attorneys in fact of an insolvent reciprocal insurer, or officers or directors of an attorney in fact of an insolvent reciprocal insurer; providing applicability; requiring the Office of Insurance Regulation to prohibit insurers or reciprocal insurers from paying any compensation to certain persons for certain violations until the violations are remedied; providing an effective date.

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

Section 1. Section 215.5586, Florida Statutes, is amended to read:

215.5586 My Safe Florida Home Program.—There is established within the Department of Financial Services the My Safe Florida Home Program. The department shall provide fiscal accountability, contract management, and strategic leadership for the program, consistent with this section. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. It is the intent of the Legislature that, subject to the availability of funds, the My Safe Florida Home Program provide licensed inspectors to perform hurricane mitigation inspections of eligible homes and grants to fund hurricane mitigation projects that result in property insurance credits, discounts, or other rate differentials on those homes. The department shall implement the program in such a manner that the total amount of funding requested by accepted applications, whether for inspections, grants, or other services or assistance, does not exceed the total amount of available funds. If, after applications are processed and approved, funds remain available,

the department may accept applications up to the available amount. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation pursuant to the requirements provided in this section.

(1) HURRICANE MITIGATION INSPECTIONS.—

(a) To be eligible for a hurricane mitigation inspection under the program:

1. A home must be a single-family, detached residential property or a townhouse as defined in s. 481.203;

2. A home must be site-built and owner-occupied; and

3. The homeowner must have been granted a homestead exemption on the home under chapter 196.

(b)1. An application for a hurricane mitigation inspection must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only one inspection application on the home or that the application is allowed under subparagraph 2., and the application must have documents attached which demonstrate that the applicant meets the requirements of paragraph (a).

2. An applicant may submit a subsequent hurricane mitigation inspection application for the same home only if:

a. The original hurricane mitigation inspection application has been denied or withdrawn because of errors or omissions in the application;

b. The original hurricane mitigation inspection

application was denied or withdrawn because the home did not meet the eligibility criteria for an inspection at the time of the previous application, and the homeowner reasonably believes the home now is eligible for an inspection; or

c. The program's eligibility requirements for an inspection have changed since the original application date, and the applicant reasonably believes the home is eligible under the new requirements.

(c) An applicant meeting the requirements of paragraph (a) may receive an inspection of a home under the program without being eligible for a grant under subsection (2) or applying for such grant.

(d) Licensed inspectors are to provide home inspections of eligible homes to determine what mitigation measures are needed, what insurance premium discounts may be available, and what improvements to existing residential properties are needed to reduce the property's vulnerability to hurricane damage. An inspector may inspect a townhouse as defined in s. 481.203 to determine if opening protection mitigation as listed in subparagraph (2)(e)1. would provide improvements to mitigate hurricane damage.

(e) The department shall contract with wind certification entities to provide hurricane mitigation inspections. The inspections provided to homeowners, at a minimum, must include:

1. A home inspection and report that summarizes the

results and identifies recommended improvements a homeowner may take to mitigate hurricane damage.

2. A range of cost estimates regarding the recommended mitigation improvements.

3. Information regarding estimated premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.

(f) To qualify for selection by the department as a wind certification entity to provide hurricane mitigation inspections, the entity must, at a minimum, meet the following requirements:

1. Use hurricane mitigation inspectors who are licensed or certified as:

a. A building inspector under s. 468.607;

b. A general, building, or residential contractor under s. 489.111;

c. A professional engineer under s. 471.015;

d. A professional architect under s. 481.213; or

e. A home inspector under s. 468.8314 and who have completed at least 3 hours of hurricane mitigation training approved by the Construction Industry Licensing Board, which training must include hurricane mitigation techniques, compliance with the uniform mitigation verification form, and completion of a proficiency exam.

2. Use hurricane mitigation inspectors who also have undergone drug testing and a background screening. The department may conduct criminal record checks of inspectors used by wind certification entities. Inspectors must submit a set of fingerprints to the department for state and national criminal history checks and must pay the fingerprint processing fee set forth in s. 624.501. The fingerprints must be sent by the department to the Department of Law Enforcement and forwarded to the Federal Bureau of Investigation for processing. The results must be returned to the department for screening. The fingerprints must be taken by a law enforcement agency, designated examination center, or other department-approved entity.

3. Provide a quality assurance program including a reinspection component.

(2) HURRICANE MITIGATION GRANTS.—Financial grants shall be used by homeowners to make improvements recommended by an inspection which increase resistance to hurricane damage.

(a) A homeowner is eligible for a hurricane mitigation grant if all of the following criteria are met:

1. The home must be eligible for an inspection under subsection (1).

2. The home must be a dwelling with an insured value of $700,000 or less. Homeowners who are low-income persons, as defined in s. 420.0004(11), are exempt from this requirement.

3. The home must undergo an acceptable hurricane mitigation inspection as provided in subsection (1).

4. The building permit application for initial construction of the home must have been made before January 1, 2008.

5. The homeowner must agree to make his or her home available for inspection once a mitigation project is completed.

6. The homeowner must agree to provide to the department information received from the homeowner's insurer identifying the discounts realized by the homeowner because of the mitigation improvements funded through the program.

(b)1. An application for a grant must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only one grant application or that the application is allowed under subparagraph 2., and the application must have documents attached demonstrating that the applicant meets the requirements of paragraph (a).

2. An applicant may submit a subsequent grant application if:

a. The original grant application was denied or withdrawn because the application contained errors or omissions;

b. The original grant application was denied or withdrawn because the home did not meet the eligibility criteria for a grant at the time of the previous application, and the homeowner reasonably believes that the home now is eligible for a grant;

or

c. The program's eligibility requirements for a grant have changed since the original application date, and the applicant reasonably believes that he or she is an eligible homeowner under the new requirements.

3. A grant application must include a statement from the homeowner which contains the name and state license number of the contractor that the homeowner acknowledges as the intended contractor for the mitigation work. The program must electronically verify that the contractor's state license number is accurate and up to date before grant approval.

(c) All grants must be matched on the basis of $1 provided by the applicant for $2 provided by the state up to a maximum state contribution of $10,000 toward the actual cost of the mitigation project, except as provided in paragraph (h).

(d) All hurricane mitigation performed under the program must be based upon the securing of all required local permits and inspections and must be performed by properly licensed contractors.

(e) When recommended by a hurricane mitigation inspection, grants for eligible homes may be used for the following improvements:

1. Opening protection, including exterior doors, garage doors, windows, and skylights.

2. Reinforcing roof-to-wall connections.

3. Improving the strength of roof-deck attachments.

4. Secondary water resistance for roof.

(f) When recommended by a hurricane mitigation inspection, grants for townhouses, as defined in s. 481.203, may only be used for opening protection.

(g) A grant may be awarded only for each mitigation improvement that, when applied to the home, will result in a property insurance mitigation credit, discount, or other rate differential. If necessary for the home to qualify for a mitigation credit, discount, or other rate differential, the department must ~~may~~ require that improvements be made to all openings, including exterior doors, garage doors, windows, and skylights, as a condition of reimbursing a homeowner approved for a grant. The department may adopt, by rule, the maximum grant allowances for any improvement allowable under paragraph (e) or paragraph (f).

(h) Low-income homeowners, as defined in s. 420.0004(11), who otherwise meet the applicable requirements of this subsection are eligible for a grant of up to $10,000 and are not required to provide a matching amount to receive the grant.

(i)1. The department shall develop a process that ensures the most efficient means to collect and verify inspection applications and grant applications to determine eligibility. The department may direct hurricane mitigation inspectors to collect and verify grant application information or use the

Internet or other electronic means to collect information and determine eligibility.

2. The department shall prioritize the review and approval of such inspection applications and grant applications in the following order:

a. First, applications from low-income persons, as defined in s. 420.0004, who are at least 60 years old;

b. Second, applications from all other low-income persons, as defined in s. 420.0004;

c. Third, applications from moderate-income persons, as defined in s. 420.0004, who are at least 60 years old;

d. Fourth, applications from all other moderate-income persons, as defined in s. 420.0004; and

e. Last, all other applications.

3. The department shall start accepting inspection applications and grant applications no earlier than the effective date of a legislative appropriation funding inspections and grants, as follows:

a. Initially, from applicants prioritized under sub-subparagraph 2.a.;

b. From applicants prioritized under sub-subparagraph 2.b., beginning 15 days after the program initially starts accepting applications;

c. From applicants prioritized under sub-subparagraph 2.c., beginning 30 days after the program initially starts

accepting applications;

d. From applicants described in sub-subparagraph 2.d., beginning 45 days after the program initially starts accepting applications; and

e. From all other applicants, beginning 60 days after the program initially starts accepting applications.

4. The program may accept a certification directly from a low-income homeowner or moderate-income homeowner who meets the requirements of s. 420.0004(11) or (12), respectively, if the homeowner provides such certification in a signed or electronically verified statement made under penalty of perjury.

(j) A homeowner who receives a grant shall finalize construction and request a final inspection, or request an extension for an additional 6 months, within 1 year after grant approval. If a homeowner fails to comply with this paragraph, his or her application is deemed abandoned and the grant money reverts to the department.

(3) REQUESTS FOR INFORMATION.—The department may request that an applicant provide additional information. An application is deemed withdrawn by the applicant if the department does not receive a response to its request for additional information within 60 days after the notification of any apparent error or omission.

(4) EDUCATION, CONSUMER AWARENESS, AND OUTREACH.—

(a) The department may undertake a statewide multimedia

public outreach and advertising campaign to inform consumers of the availability and benefits of hurricane inspections and of the safety and financial benefits of residential hurricane damage mitigation. The department may seek out and use local, state, federal, and private funds to support the campaign.

(b) The program may develop brochures for distribution to Citizens Property Insurance Corporation and other licensed entities or nonprofits that work with the department to educate the public on the benefits of the program. Citizens Property Insurance Corporation must distribute the brochure to policyholders of the corporation each year the program is funded. The brochures may be made available electronically.

(5) FUNDING.—The department may seek out and leverage local, state, federal, or private funds to enhance the financial resources of the program.

(6) RULES.—The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the program; implement the provisions of this section; including rules governing hurricane mitigation inspections and grants, mitigation contractors, and training of inspectors and contractors; and carry out the duties of the department under this section.

(7) HURRICANE MITIGATION INSPECTOR LIST.—The department shall develop and maintain as a public record a current list of hurricane mitigation inspectors authorized to conduct hurricane mitigation inspections pursuant to this section.

(8) CONTRACT MANAGEMENT.—

(a) The department may contract with third parties for grants management, inspection services, contractor services for low-income homeowners, information technology, educational outreach, and auditing services. Such contracts are considered direct costs of the program and are not subject to administrative cost limits. The department shall contract with providers that have a demonstrated record of successful business operations in areas directly related to the services to be provided and shall ensure the highest accountability for use of state funds, consistent with this section.

(b) The department shall implement a quality assurance and reinspection program that determines whether initial inspections and home improvements are completed in a manner consistent with the intent of the program. The department may use valid random sampling in order to perform the quality assurance portion of the program.

(9) INTENT.—It is the intent of the Legislature that grants made to residential property owners under this section shall be considered disaster-relief assistance within the meaning of s. 139 of the Internal Revenue Code of 1986, as amended.

(10) REPORTS.—The department shall make an annual report on the activities of the program that shall account for the use of state funds and indicate the number of inspections requested,

the number of inspections performed, the number of grant applications received, the number and value of grants approved, and the estimated average annual amount of insurance premium discounts and total estimated annual amount of insurance premium discounts homeowners received from insurers as a result of mitigation funded through the program. The report must be delivered to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year.

Section 2. Subsection (1) of section 624.407, Florida Statutes, is amended to read:

624.407 Surplus required; new insurers.—

(1) To receive authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer applying for its original certificate of authority in this state shall possess surplus as to policyholders at least the greater of:

(a) For a property and casualty insurer, $5 million, or $2.5 million for any other insurer;

(b) For life insurers, 4 percent of the insurer's total liabilities;

(c) For life and health insurers, 4 percent of the insurer's total liabilities, plus 6 percent of the insurer's liabilities relative to health insurance;

(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities;

(e) Notwithstanding paragraph (a) or paragraph (d), for a domestic insurer that transacts residential property insurance and is:

1. Not a wholly owned subsidiary of an insurer domiciled in any other state, $35 ~~$15~~ million.

2. A wholly owned subsidiary of an insurer domiciled in any other state, $50 million;

(f) Notwithstanding paragraphs (a), (d), and (e), for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property pursuant to s. 627.7151, $12.5 ~~$7.5~~ million; or

(g) Notwithstanding paragraphs (a), (d), and (e), for an insurer that only transacts residential property insurance in the form of renter's insurance, tenant's coverage, cooperative unit owner insurance, or any combination thereof, $15 ~~$10~~ million.

Section 3. Section 624.4073, Florida Statutes, is amended to read:

624.4073 Officers and directors or attorneys in fact of insolvent insurers.—

(1) Any person who was an officer or director of an insurer doing business in this state and who served in that capacity within the 2-year period before the date the insurer became insolvent, for any insolvency that occurs on or after July 1, 2002, but before July 1, 2025, may not thereafter serve

as an officer or director of an insurer authorized in this state or have direct or indirect control over the selection or appointment of an officer or director through contract, trust, or by operation of law~~, unless the officer or director demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency~~.

(2) Any person who was an officer or director of an insurer doing business in this state, was the attorney in fact of a reciprocal insurer doing business in this state, or was an officer or director of an attorney in fact of a reciprocal insurer doing business in this state and who served in that capacity within the 5-year period before the date such insurer or reciprocal insurer became insolvent, for any insolvency that occurs on or after July 1, 2025, may not thereafter do any of the following:

(a) Serve as an officer or a director of an insurer authorized in this state.

(b) Serve as an officer or a director of a managing general agent of an insurer authorized in this state.

(c) Serve as an attorney in fact or as an officer or a director of the attorney in fact of a reciprocal insurer authorized in this state.

(d) Serve as an officer or a director of an affiliate of an insurer authorized in this state which provides services to such insurer.

(e) Exercise direct or indirect control through contract, trust, or by operation of law over the selection or appointment of any position specified in paragraphs (a)-(d).

(3)(a) The prohibitions in subsections (1) and (2) do not apply if the officer, director, or attorney in fact demonstrates, and the office determines, that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

(b) For any violation of paragraph (2)(b), paragraph (2)(c), or paragraph (2)(d), the office shall prohibit an insurer or reciprocal insurer authorized in this state from paying any compensation to a managing general agent, affiliate, or attorney in fact that has an officer or director or is an attorney in fact that engaged in such violation until the office determines the violation has been remedied.

Section 4. Paragraphs (f) through (i) of subsection (1) of section 624.408, Florida Statutes, are amended to read:

624.408 Surplus required; current insurers.—

(1) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state must at all times maintain surplus as to policyholders at least the greater of:

(f) For residential property insurers not holding a certificate of authority before July 1, 2025 ~~2011~~, $35 ~~$15~~

million.

(g) For residential property insurers holding a certificate of authority before July 1, 2025 ~~2011~~, and until June 30, 2030 ~~2016~~, $15 ~~$5~~ million; on or after July 1, 2030 ~~2016~~, and until June 30, 2035 ~~2021~~, $25 ~~$10~~ million; on or after July 1, 2035 ~~2021~~, $35 ~~$15~~ million.

(h) Notwithstanding paragraphs (e), (f), and (g), for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property pursuant to s. 627.7151:~~, $7.5 million.~~

1. For such an insurer that does not hold a certificate of authority before July 1, 2025, $12.5 million.

2. For such an insurer holding a certificate of authority before July 1, 2025, and until June 30, 2030, $7.5 million; on or after July 1, 2030, and until June 30, 2035, $10 million; on or after July 1, 2035, $12.5 million.

(i) Notwithstanding paragraphs (a), (d), and (e), for an insurer that only transacts residential property insurance in the form of renter's insurance, tenant's coverage, cooperative unit owner insurance, or any combination thereof:~~, $10 million.~~

1. For such an insurer that does not hold a certificate of authority before July 1, 2025, $15 million.

2. For such an insurer holding a certificate of authority before July 1, 2025, and until June 30, 2030, $10 million; on or after July 1, 2030, and until June 30, 2035, $12.5 million; on

or after July 1, 2035, $15 million.

The office may reduce the surplus requirement in paragraphs (f) and (g) if the insurer is not writing new business, has premiums in force of less than $1 million per year in residential property insurance, or is a mutual insurance company.

Section 5. This act shall take effect July 1, 2025.

INSURANCE & BANKING SUBCOMMITTEE

HB 1433 by Rep. Benarroch
Hurricane Mitigation Grants and Insurers' Regulations

AMENDMENT SUMMARY
April 10, 2025

Amendment 1 by Rep. Benarroch (Line 456): The amendment:

- Prohibits the Office of Insurance Regulation (OIR) from requesting that an insurer waive deemed approval for a residential property insurance rate filing that proposes a rate decrease, unless the decrease is solely due to reduced coverage or policy form changes.
- Prohibits the OIR from issuing a notice of intent to disapprove a rate filing that proposes a rate decrease unless the review of the filing is finalized.
- Establishes a statutory framework governing the use of artificial intelligence in claims handling.

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 Benarroch offered the following:

Amendment (with title amendment)

Between lines 456 and 457, insert:

Section 5. Paragraph (a) of subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals that allow the insurer a reasonable rate of return on the classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge

schedules, and changes thereto, must be filed with the office under one of the following procedures:

1. If the filing is made at least 90 days before the proposed effective date and is not implemented during the office's review of the filing and any proceeding and judicial review, such filing is considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. If the 90-day period ends on a weekend or a holiday under s. 110.117(1)(a)-(i), it must be extended until the conclusion of the next business day. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notifications ~~notification~~ to the insurer by the office of its preliminary findings do ~~does~~ not toll the 90-day period during any such proceedings and subsequent judicial review. The rate is ~~shall be~~ deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The office may not request that an insurer waive such deemed approval for any residential property insurance rate filing in which the insurer proposes a rate decrease, provided that the decrease is not solely due to a reduction in coverage or changes

to policy forms. The office may not issue a notice of intent to disapprove a residential property insurance rate filing in which the insurer proposes a rate decrease unless it has completed a finalized review.

2. If the filing is not made in accordance with subparagraph 1., such filing must be made as soon as practicable, but within 30 days after the effective date, and is considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders those portions of rates found to be excessive, as provided in paragraph (h).

3. For all property insurance filings made or submitted after January 25, 2007, but before May 1, 2012, an insurer seeking a rate that is greater than the rate most recently approved by the office shall make a "file and use" filing. For purposes of this subparagraph, motor vehicle collision and comprehensive coverages are not considered property coverages.

The provisions of this subsection do not apply to workers' compensation, employer's liability insurance, and motor vehicle insurance.

Section 6. Section 627.4263, Florida Statutes, is created to read:

627.4263 Use of algorithms, artificial intelligence systems, and machine learning systems in claims handling.—

(1) As used in this section:

(a) "Algorithm" means a clearly specified mathematical process for computation that uses rules designed to give prescribed results.

(b) "Artificial intelligence system" means a machine-based system that may have varying levels of autonomy and that can, for a given set of objectives, generate outputs such as predictions, recommendations, content, or other outputs influencing decisions made in real or virtual environments.

(c) "Machine learning system" means an artificial intelligence system that has the ability to learn from provided data without being explicitly programmed.

(d) "Qualified human professional" means an individual who, under the Florida Insurance Code, has authority to adjust or deny a claim or a portion of a claim and has such authority over a particular claim.

(2) An insurer may use an algorithm, artificial intelligence system, or machine learning system to assist in processing claims, including generating recommendations to approve or deny a claim or any portion of a claim.

(3) A claim, or any portion of a claim, may not be denied solely on the basis of output from an algorithm, artificial intelligence system, or machine learning system. A final decision to deny a claim or any portion of a claim must be made and documented by a qualified human professional.

(4) Before denying a claim or any portion of a claim, a qualified human professional must:

(a) Independently analyze the facts of the claim and the terms of the applicable insurance policy;

(b) Review and verify the accuracy of any outputs or recommendations produced by any algorithm, artificial intelligence system, or machine learning system used in the claims process;

(c) Conduct any required internal review of a prior claim adjustment or decision.

(5) An insurer must maintain detailed records related to each claim denial, including:

(a) The name and title of the qualified human professional who made the denial decision and of any qualified human professional who reviewed the decision;

(b) The date and time of the claim denial and of any review; and

(c) Documentation of the basis for denial of the claim or a portion of the claim.

(6) Any written communication to a claimant concerning the denial of a claim or any portion thereof must:

(a) Clearly identify the qualified human professional responsible for the denial decision;

(b) Include a statement affirming that the claim or any portion thereof was not denied solely based on the output of an

algorithm, artificial intelligence system, or machine learning system.

(7) An insurer that uses an algorithm, an artificial intelligence system, or a machine learning system as part of its claims handling process must detail in its claims handling manual the manner in which such systems are used and the manner in which the insurer complies with this section.

(8) The office may perform market conduct examinations, perform investigations, or use any other lawful method necessary to verify compliance with this section.

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

Remove line 25 and insert:
violations are remedied; amending s. 627.062, F.S.; prohibiting the office from requesting an insurer waive a deemed approval for residential property insurance rate filing under certain circumstances; prohibiting the office from issuing a notice of intent to disapprove a residential property insurance rate filing under certain circumstances; creating s. 627.4263, F.S.; defining terms; requiring that insurers' decisions to deny claims be made by qualified human professionals; specifying the duties of qualified human professionals; requiring an insurer

to maintain certain records; prohibiting using artificial intelligence, machine learning systems, or algorithms as the sole basis for determining whether to deny a claim; requiring insurers to include certain information in denial communications to claimants; requiring that certain insurers detail certain information in its claims handling manual; authorizing the office to conduct market conduct examinations and investigations under certain circumstances; providing an effective date.

HB 7011

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 7011 PCB GOS 25-06 **TITLE:** OGSR/Records of Insurers/Department of Financial Services **SPONSOR(S):** Government Operations Subcommittee, Gentry	**COMPANION BILL:** CS/SB 7010 (Sharief) **LINKED BILLS:** None **RELATED BILLS:** None

Committee References

Orig. Comm.: Government Operations 17 Y, 0 N	➤	Insurance & Banking	➤	State Affairs

SUMMARY

Effect of the Bill:

The bill narrows the public record exemption for certain information made or received by the Department of Financial Services (DFS) while acting as a receiver of insolvent insurers to include only consumer information, certain personnel information, and information received from the National Association of Insurance Commissioners or a government entity. The bill also removes the scheduled repeal date, created pursuant to the Open Government Sunset Review Act, for the public record exemption.

Fiscal or Economic Impact:

None.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill narrows the public record exemption for certain information made or received by the Department of Financial Services (DFS) while acting as a receiver of insolvent insurers to include only the following records:

- All personal financial and health information of a consumer.
- Personnel and payroll records of the insurer (except for the names, benefits, and compensation of executive officers).
- Consumer claim files.
- Information received from the National Association of Insurance Commissioners, a governmental entity in this or another state, the Federal Government, or a government of another nation that is confidential or exempt if held by that entity and that is held by DFS for use in the performance of its duties related to insurer insolvency. (Section 1).

The following categories of information made or received by DFS while acting as a receiver of insolvent insurers that are currently protected from disclosure would now, on a prospective basis, be open to the public:

- Underwriting files of a type customarily maintained by an insurer transacting lines of insurance similar to those lines transacted by the insurer.
- Own-Risk and Solvency Assessment summary reports.
- Corporate Governance Annual Disclosures.
- The names, benefits, and compensation of executive officers. (Section 1).

The bill removes the scheduled repeal date of the exemption, created pursuant to the Open Government Sunset Review Act (OGSR Act). The public record exemption will repeal on October 2, 2025, if the bill does not become law. (Section 1).

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

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Open Government Sunset Review Act

The 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.
- 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.[4] 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 for passage are not required.

Regulation of Insurance in Florida: Solvency Regulation

The regulatory oversight of insurance companies is generally reserved to the states. In Florida, the Office of Insurance Regulation (OIR), administratively housed within the Department of Financial Services (DFS), oversees insurers and other risk-bearing entities. OIR's regulatory oversight includes responsibilities related to licensing, rates, policy forms, market conduct, claims, solvency, and premium financing. Solvency regulation aims to protect policyholders by ensuring that insurers can meet their financial obligations, particularly the payment of claims. Solvency regulations encompass initial and ongoing requirements that an insurer must meet for it to have the authority to operate in this state. Moreover, solvency regulations allow OIR to monitor an insurer's financial health through examinations and audits. If an insurer is found to be financially unsound or insolvent, current law provides procedures for the rehabilitation or liquidation of those insurers.[5]

National Association of Insurance Commissioners

The National Association of Insurance Commissioners (NAIC) is a U.S. standard-setting and regulatory support organization governed by state insurance regulators. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate their regulatory oversight.[6] As a member of the NAIC, OIR is required to participate in the organization's Financial Regulation Standards and Accreditation Program.[7] NAIC accreditation certifies that a state insurance department meets legal, regulatory, and organizational oversight standards to ensure sound financial solvency regulation of insurers.

The NAIC has adopted insurance model acts that give state insurance regulators like OIR solvency regulatory tools, such as the Own-Risk and Solvency Assessment (ORSA) and the Corporate Governance Annual Disclosure (CGAD).[8]

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[1] S. 119.15, F.S.
[2] S. 119.15(3), F.S.
[3] S. 119.15(6)(b), F.S.
[4] Art. I, s. 24(c), FLA. CONST.
[5] *See* ch. 631, F.S.
[6] *See* NAIC, *About the NAIC* (last visited Feb. 5, 2025).
[7] *See* NAIC, *Financial Regulation Standards and Accreditation Program* (last visited Feb. 5, 2025).
[8] *See* s. 628.8015, F.S.

Own-Risk and Solvency Assessment

An Own-Risk and Solvency Assessment (ORSA)[9] is an internal evaluation conducted by an insurer or insurance group to assess the material and relevant risks associated with its business plan and determine whether its capital resources are sufficient to support those risks. NAIC developed the ORSA Model Act, which requires insurers to submit an ORSA report to the regulatory entity of their state. To ensure uniform adoption, the NAIC made compliance with the ORSA Model Act an accreditation requirement for member states by 2018. In 2016, the Legislature adopted major components of the ORSA Model Act.[10] Pursuant to this legislation, insurers are required to conduct an ORSA at least annually or whenever there are significant changes to their risk profile.[11] They must also maintain a risk management framework to identify, assess, monitor, manage, and report on material risks. Additionally, insurers must file an annual ORSA summary report with OIR, which must include a brief description of material changes and updates from the prior year's report. The report must be signed by the chief risk officer or chief executive officer responsible for overseeing the enterprise risk management process and prepared in accordance with the NAIC ORSA Guidance Manual. Insurers are also required to maintain supporting documentation and make it available for examination by OIR.[12]

Corporate Governance Annual Disclosure

The NAIC also created the Corporate Governance Model Act to provide insurance regulators with sufficient information on insurer governance structures, practices, and processes through a corporate governance annual disclosure, known as the CGAD.[13] In 2016, the Legislature mandated that insurers submit CGADs to OIR by June 1 of each year.[14] The CGAD must describe the:

- Corporate governance framework and structure of the insurer or insurance group.
- Policies and practices of the most senior governing entity and significant committees.
- Policies and practices for directing senior management.
- Processes by which the board, its committees, and senior management ensure an appropriate amount of oversight to the critical risk areas that have an impact on the insurer's business activities.[15]

The chief executive officer or corporate secretary of the insurer or insurance group must sign the CGAD attesting that, to the best of his or her knowledge and belief, the insurer has implemented the corporate governance practices and provided a copy of the disclosure to the board of directors or the appropriate board committee.[16]

Consumer Personal Financial and Health Information

Insurance companies routinely possess records of policyholders and claimants during the normal course of business which include personal, private financial and medical information. If such records are made available, it is usually through confidentiality agreements or court orders, and with reference to certain state and federal privileges and confidentiality laws and regulations.

Transfer of Records upon Delinquency Proceedings

OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each authorized insurer.[17] In the event that OIR determines that one or more grounds for the initiation of delinquency proceedings against an insurer exist, such as insolvency,[18] the Insurers Rehabilitation and Liquidation Act[19] requires the Director of OIR to notify DFS of that determination and to provide DFS with all necessary documentation and evidence, thereby enabling DFS to initiate the delinquency proceeding.[20] This documentation and evidence may

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[9] S. 628.8015(1)(d), F.S.
[10] Ch. 2016-206, L.O.F.
[11] S. 628.8015(2), F.S.
[12] *Id.*
[13] S. 628.8015(1)(a), F.S., defines CGAD to mean a report filed by an insurer or insurance group in accordance with s. 628.8015, F.S.
[14] Ch. 2016-206, L.O.F.
[15] S. 628.8015(3)(c)4., F.S.
[16] S. 628.8015(3)(b)2., F.S.
[17] S. 624.316(1)(a), F.S.
[18] "Insolvency" means that all the assets of the insurer, if made immediately available, would not be sufficient to discharge all its liabilities or that the insurer is unable to pay its debts as they become due in the usual course of business. Depending on the context, insolvency also includes and is defined as "impairment of capital" and "impairment of surplus" as defined in s. 631.011(12) and (13), F.S., respectively. S. 631.011(14), F.S.
[19] Ch. 631, part I, F.S.
[20] S. 631.031(1), F.S.

include confidential and sensitive information. In addition, when DFS is appointed as receiver of an insurer during the course of a delinquency proceeding, current law expressly vests DFS with the title to all property of the insurer, including all books and records.[21]

Public Record Exemptions for Solvent Insurers

Current law provides the following information held by OIR relating to solvent insurers is confidential and exempt[22] from public record requirements:

- Proprietary business information contained in certain documents such as the actuarial opinion summary, principle-based valuation report, enterprise risk report, and insurance holding company registration;
- ORSA summary reports, or a substantially similar ORSA report, and supporting documents;
- CGADs and supporting documents;
- Information received from NAIC, a governmental entity in this or another state, the federal government, or a government of another nation which is confidential and exempt if held by that entity.[23]

In addition, personal financial and health information[24] held by DFS or OIR relating to a consumer's complaint or inquiry regarding a matter or activity regulated under the Florida Insurance Code or Florida's Workers' Compensation Law is confidential and exempt from public record requirements.[25]

Public Record Exemption under Review

In 2020, the Legislature created a public record exemption for certain information relating to insolvent insurers that is similar to the public record exemption for solvent insurers.[26] Specifically, the following information made or received by DFS while acting as receiver is confidential and exempt from public record requirements:

- All personal financial and health information of a consumer.
- Underwriting files of a type customarily maintained by an insurer transacting lines of insurance similar to those lines transacted by the insurer.
- Personnel and payroll records of the insurer.
- Consumer claim files.
- ORSA summary reports, substantially similar ORSA summary reports, and supporting documents.
- CGADs and supporting documents.
- Information received from NAIC, a governmental entity in this or another state, the federal government, or a government of another nation which is confidential and exempt if held by that entity.[27]

[21] S. 631.141(1) and (2), F.S.

[22] 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 Rivera 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).

[23] S. 624.4212(2)-(4), F.S. OIR may disclose the foregoing confidential and exempt information if the applicable insurer gives prior written consent; pursuant to a court order; to the Actuarial Board for Counseling and Discipline under specified conditions; to other states, federal and international agencies, the Office of Insurance Consumer Advocate, NAIC and its affiliated subsidiaries, and state, federal, and international law enforcement authorities; or in the aggregate if the identities of the insurers, or persons or affiliated persons, are not revealed. S. 624.4212(5), F.S.

[24] S. 624.23(1)(b), F.S.

[25] S. 624.23(2), F.S. The foregoing confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities; NAIC; the consumer. S. 624.23(3), F.S.

[26] Ch. 2020-142, L.O.F.

[27] S. 631.195(2), F.S.

The confidential and exempt information may be released:

- To any state or federal agency, upon written request, if disclosure is necessary for the receiving entity to perform its duties and responsibilities.
- To comply with a civil, criminal, or regulatory investigation or a subpoena or summons by a federal, state, or local authority.
- To NAIC and its affiliates and subsidiaries, if the recipient agrees in writing to maintain its confidential and exempt status.
- To the guaranty associations and funds of the various states which are receiving, adjudicating, and paying claims of the insolvent insurer subject to delinquency proceedings.
- To certain employees whose responsibilities include the investigation and disposition of claims relating to suspected fraudulent insurance acts upon written request.
- In the case of personal financial and health information, upon written request of the consumer or the consumer's legally authorized representative.[28]

In 2020, the public necessity statement[29] for the public record exemption provided, in part, that:

> Disclosure of financial, health, underwriting, personnel, payroll, or consumer claim information would create the opportunity for theft or fraud, thereby jeopardizing the financial security of a person. . . Divulging the ORSA summary report, substantially similar ORSA summary report, and supporting documents will injure the insurer or insurance group by providing competitors with detailed insight into their financial position, risk management strategies, business plans, pricing and marketing strategies, management systems, and operational protocols. . . Release of the corporate governance annual disclosure and supporting documents will injure the insurer or insurance group in the marketplace by providing competitors with the insurer's or the insurance group's confidential business information.[30]

Pursuant to the OGSR Act, the exemption will repeal on October 2, 2025, unless reenacted by the Legislature.[31]

During the 2024 interim, House and Senate committee staff met jointly with staff from DFS to discuss the public record exemption under review. DFS staff indicated that they had not had any difficulty interpreting or applying the exemption and were unaware of any litigation concerning the exemption. DFS staff noted the continued necessity for the exemption be reenacted as is.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Orig. Comm.: Government Operations Subcommittee	17 Y, 0 N	3/18/2025	Toliver	Villa
Insurance & Banking Subcommittee			Hamon	Herrera
State Affairs Committee				

[28] S. 631.195(4), F.S.
[29] Art. I, s. 24(c), FLA. CONST., requires each public record exemption to "state with specificity the public necessity justifying the exemption."
[30] Ch. 2020-142, L.O.F.
[31] S. 631.195(5), F.S.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 631.195, F.S., which provides an exemption from public record requirements for certain records made or received by the Department of Financial Services acting as receiver pursuant to specified provisions; revising the list of records that are exempt from public records requirements; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 631.195, Florida Statutes, is amended to read:

631.195 Records of insurers; public records exemptions.—

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

(a) "Consumer" means a prospective purchaser of, a purchaser of, a beneficiary of, or an applicant for any insurance product or service. The term also includes a family member or dependent of such person.

(b) "Personal financial and health information" means:

1. A consumer's personal health condition, disease, or injury;

2. A history of a consumer's personal medical diagnosis or

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

treatment;

3. The existence, nature, source, or amount of a consumer's personal income or expenses;

4. Records of, or relating to, a consumer's personal financial transactions of any kind;

5. The existence, identification, nature, or value of a consumer's assets, liabilities, or net worth;

6. The existence or content of, or any individual coverage or status under a consumer's beneficial interest in, any insurance policy or annuity contract; or

7. The existence, identification, nature, or value of a consumer's interest in any insurance policy, annuity contract, or trust.

(2) The following records, in whatever form, of an insurer which are made or received by the department, acting as receiver pursuant to this chapter, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) All personal financial and health information of a consumer.

~~(b) Underwriting files of a type customarily maintained by an insurer transacting lines of insurance similar to those lines transacted by the insurer.~~

(b) ~~(c)~~ Personnel and payroll records of the insurer, except for the names, benefits, and compensation of executive officers.

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

(c) ~~(d)~~ Consumer claim files.

~~(e) An own-risk and solvency assessment (ORSA) summary report, a substantially similar ORSA summary report, and supporting documents submitted to the office pursuant to s. 628.8015.~~

~~(f) A corporate governance annual disclosure and supporting documents submitted to the office pursuant to s. 628.8015.~~

(d) ~~(g)~~ Information received from the National Association of Insurance Commissioners, a governmental entity in this or another state, the Federal Government, or a government of another nation which is confidential or exempt if held by that entity and which is held by the department for use in the performance of its duties relating to insurer solvency.

(3) The exemptions in subsection (2) apply to records held by the department before, on, and after July 1, 2020.

(4) Records or portions of records made confidential and exempt by this section may be released under any of the following circumstances:

(a) To any state or federal agency, upon written request, if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving agency shall maintain the confidential and exempt status of such record or portion of such record.

(b) To comply with a properly authorized civil, criminal,

or regulatory investigation or a subpoena or summons by a federal, state, or local authority.

(c) To the National Association of Insurance Commissioners and its affiliates and subsidiaries, if the recipient agrees in writing to maintain the confidential and exempt status of the records.

(d) To the guaranty associations and funds of the various states which are receiving, adjudicating, and paying claims of the insolvent insurer subject to delinquency proceedings pursuant to this chapter. The receiving guaranty association shall maintain the confidential and exempt status of such record or portion of such record.

(e) Upon written request, to persons identified as designated employees as described in s. 626.989(4)(d), whose responsibilities include the investigation and disposition of claims relating to suspected fraudulent insurance acts.

(f) In the case of personal financial and health information of a consumer, upon written request of the consumer or the consumer's legally authorized representative.

~~(5) This section 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 July 1, 2025.