

Insurance & Banking Subcommittee

Wednesday, January 21, 2026
10:00 AM - 12:15 PM
Morris Hall (17 HOB)

Meeting Packet

Daniel Perez
Speaker

Bradford Yeager
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Insurance & Banking Subcommittee

Start Date and Time: Wednesday, January 21, 2026 10:00 AM

End Date and Time: Wednesday, January 21, 2026 12:15 PM

Location: Morris Hall (17 HOB)

Duration: 2.25 hrs

Consideration of the following bill(s):

HB 381 Office of Financial Regulation by Barnaby
HB 427 Public Adjuster Contracts by Melo
HB 767 Residential Property Insurance by Benarroch
HB 777 Pub. Rec./Office of Financial Regulation by Barnaby
HB 893 Trust Fund Interest for Purposes Approved by Supreme Court by Koster
HB 895 Trustee Settlement and Discharge by Hodgers, Fabricio
HB 1399 Property Insurance Affiliates by Berfield

NOTICE FINALIZED on 01/16/2026 4:30PM by Young.Kimberly

HB 381

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 381	**COMPANION BILL:** None
TITLE: Office of Financial Regulation	**LINKED BILLS:** HB 777 Barnaby
SPONSOR(S): Barnaby	**RELATED BILLS:** CS/SB 540 (Martin)

Committee References

Insurance & Banking ➤ Information Technology Budget & Policy ➤ Commerce

SUMMARY

Effect of the Bill:
The bill creates cybersecurity requirements for mortgage and money services businesses. The bill excludes certain investment advisers from registration requirements. The bill expands the scope of the Financial Technology Sandbox. The bill modifies disciplinary actions and penalties for mortgage and money services businesses. The bill relaxes minimum qualifications for certain directors and officers of financial institutions. The bill modifies credit union member qualifications and meeting requirements and eliminates a fixed asset investment limit. The bill also provides financial institutions and certain family trust companies with additional time to pay fees.

Fiscal or Economic Impact:
There may be an indeterminate fiscal impact on the state government and private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Cybersecurity requirements:
The bill requires mortgage and money services businesses to develop and maintain comprehensive cybersecurity programs designed to protect nonpublic personal information of customers. (Sections 1 and 6).

The bill defines "nonpublic personal information" as:

- Personally identifiable financial information; and
- Any list, description, or other grouping of customers that is derived using any personally identifiable financial information that is not publicly available, such as account numbers, including any list of individuals' names and street addresses that is derived, in whole or in part, using personally identifiable financial information that is not publicly available. (Sections 1 and 6).

Information security program requirements:
The bill requires each mortgage and money service business licensee to develop, implement, and maintain a comprehensive written information security program[1] that contains administrative, technical, and physical safeguards for the protection of the licensee's information system and nonpublic personal information. Each licensee must ensure that the information security program meets all of the following criteria:

- Be commensurate with the following measures:
  - Size and complexity of the licensee.
  - Nature and scope of the licensee's activities.

[1] The bill defines "information security program" as the administrative, technical, or physical safeguards used to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information. (Sections 1 and 6).

  - Sensitivity of nonpublic personal information that is used by the licensee or that is in the licensee's possession, custody, or control.
- Be designed to do all of the following:
  - Protect the security and confidentiality of nonpublic personal information and the security of the licensee's information system.
  - Protect against threats or hazards to the security or integrity of nonpublic personal information and the licensee's information system.
  - Protect against unauthorized access to or the use of nonpublic personal information and minimize the likelihood of harm to any customer.
- Define and periodically reevaluate the retention schedule and the mechanism for the destruction of nonpublic personal information if retention is no longer necessary for the licensee's business operations or required by law.
- Regularly test and monitor systems and procedures for the detection of actual and attempted attacks on, or intrusions into, the licensee's information system.
- Be monitored, evaluated, and adjusted to meet the following requirements:
  - Determine whether the licensee's program is consistent with relevant changes in technology.
  - Confirm the licensee's program accounts for the sensitivity of nonpublic personal information.
  - Identify changes that may be necessary to the licensee's information system.
  - Eliminate any internal or external threats to nonpublic personal information.
  - Amend the licensee's program for any of the licensee's changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, and outsourcing arrangements. (Sections 1 and 6).

Written response plan requirements:
The bill requires a mortgage or money services business licensee to establish a written incident response plan designed to promptly respond to, and recover from, a cybersecurity event[2] that includes:

- The confidentiality, integrity, or availability of nonpublic personal information in the licensee's possession;
- The licensee's information system; or
- The continuing functionality of any aspect of the licensee's operations. (Sections 1 and 6).

The written incident response plan must address all of the following:

- The licensee's internal process for responding to a cybersecurity event.
- The licensee's incident response plan goals.
- The assignment of clear roles, responsibilities, and levels of decision making authority for the licensee's personnel that participate in the incident response plan.
- External communications, internal communications, and information sharing related to a cybersecurity event.
- The identification of remediation requirements for weaknesses identified in information systems and associated controls.
- The documentation and reporting regarding cybersecurity events and related incident response activities.
- The evaluation and revision of the incident response plan following a cybersecurity event.
- The process by which any required notice must be given. (Sections 1 and 6).

The bill authorizes OFR to adopt rules allowing a mortgage or money services business compliant with the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 C.F.R. part 314, to be deemed in compliance with the bill's information security program and written response plan requirements. (Sections 1 and 6).

[2] The bill defines "cybersecurity event" as an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form. (Sections 1 and 6).

Cybersecurity investigation requirements:
The bill requires a mortgage or money services business licensee, or an outside vendor or third-party service provider that the licensee has designated to act on its behalf, to conduct a prompt investigation of the cybersecurity event if a cybersecurity event has or may have occurred. During the investigation, the licensee or outside vendor or third-party service provider must, to the extent possible comply with the following minimum requirements:

- Confirm that a cybersecurity event has occurred.
- Identify the date that the event first occurred.
- Assess the nature and scope of the cybersecurity event.
- Identify all nonpublic personal information that may have been compromised.
- Perform or oversee reasonable measures to restore the security of any compromised information system in order to prevent further unauthorized acquisition, release, or use of nonpublic personal information that is in the licensee's, outside vendor's, or third-party service provider's possession, custody, or control. (Sections 1 and 6).

If a licensee learns that a cybersecurity event has occurred, or may have occurred, in an information system maintained by a third-party service provider of the licensee, the licensee must complete an investigation or confirm and document that the third-party service provider has completed an investigation that complies with the requirements summarized above. A licensee must maintain all records and documentation related to the licensee's investigation of a cybersecurity event for a minimum of 5 years and must produce the records and documentation to the Office of Financial Regulation ("OFR") upon request. (Sections 1 and 6).

A mortgage or money services business that has fewer than twenty employees or independent contractors on its workforce or fewer than five hundred customers during a calendar year, are not subject to the information technology program and cybersecurity event investigation requirements created in the bill. A licensee that no longer qualifies for such an exemption has 180 calendar days to comply with the requirements after the date of the disqualification. Each licensee shall maintain a copy of the information security program for a minimum of 5 years and must make it available to the office upon request or as part of an examination. (Sections 1 and 6).

Cybersecurity notice requirement:
The bill requires each mortgage or money services business licensee to provide notice as prescribed by the Florida Financial Services Commission ("Commission") rule to OFR of any security breach affecting 500 or more individuals. Upon OFR's request, each licensee must provide a quarterly update of a cybersecurity event investigation until conclusion of the investigation. (Sections 1 and 6).

Investment adviser exemptions:
The bill revises the qualifications for being exempt from having to register as an investment advisor. Under the bill, a person with fewer than six clients who are Florida residents during the preceding 12 months is exempt from registering as an investment adviser if:

- The person does not have a place of business in Florida; or
- The person has a place of business in Florida and during the preceding 12 months, has no clients who are not Florida residents. (Section 3).

The bill defines "place of business" as an office at which the person regularly provides investment advisory services, solicits, meets with, or otherwise communicates with clients, as well as any locations the person holds out to the general public as a location in which they do these things. (Section 3).

The bill also adds an exemption from registration as an investment advisor for family offices, as defined by Securities and Exchange Commission Rule 202(a)(11)(G)-1(b) and (d) under the Investment Advisers Act of 1940.[3] (Section 3).

[3] 17 C.F.R. 275.202(a)(11)(G)-1.

Financial technology sandbox:

The bill amends the type of products and services that qualify for participation in the Financial Technology Sandbox ("Sandbox") by removing the requirement that products and services be innovative and by expanding eligibility to include products and services related to credit, banking, money transmission, and securities transactions. (Section 4).

The bill amends the definition of "business entity" to remove the requirement that the business be domestic and to specify that a "business entity" is any company, limited liability company, or trust that may be fictitiously named and that does business in the state. (Section 4).

The bill broadens the scope of Florida laws that may be waived by participating in the Sandbox by repealing the specific statutes that do not apply to a sandbox licensee and replacing it by providing OFR the authority to waive any of the sections within the following chapters:

- Chapter 516, Consumer Finance.
- Chapter 517, Securities Transactions.
- Chapter 520, Retail Installment Sales.
- Chapter 537, Title Loans.
- Part I or part II of chapter 560, General Provisions of Money Services Businesses or Payment Instruments and Funds Transmission.
- Chapter 655, Financial Institutions Generally.
- Chapter 657, Credit Unions.
- Chapter 658, Banks and Trust Companies.
- Chapter 660, Trust Business.
- Chapter 662, Family Trust Companies.
- Chapter 663, International Banking. (Section 4).

The bill authorizes OFR to grant a sandbox applicant a waiver of general law on the following conditions:

- The general law or rule does not currently authorize the financial product or service to be made available to consumers.
- The waiver is not broader than necessary to accomplish the specified purposes and standards, as determined by OFR.
- Any provision relating to the liability of an incorporator, director, or officer of the applicant is not eligible for a waiver. (Section 4).

When deciding whether to approve a sandbox application, the bill removes the following requirements for OFR to consider:

- The potential risk to consumers and the methods used to protect them.
- The company's market analysis, financial projections or pro forma financial statements, and evidence of the applicant's financial viability.
- Whether the applicant has the necessary personnel, adequate financial and technical expertise, and sufficient testing, monitoring, and assessing the product or service. (Section 4).

The bill removes the limits on how many customers may receive a financial product or service participating in the Sandbox, which were previously 15,000 or 25,000 under certain conditions. (Section 4).

The bill amends statutory construction to provide that approval of a sandbox license deems the licensee to possess the appropriate license under any general law, rather than authorizing certain activity within limited chapters, and provides that approval of the license does not confer a property right. (Section 4).

The bill specifies that the financial product or service covered by the license is not endorsed by the state and that the state is not liable for losses or damages caused by such product or service. (Section 4).

Disciplinary actions for Money Services Businesses:
The bill provides that a money services business can be disciplined for actions committed by a party that was affiliated with the money services business at the time of the act. (Section 5).

The bill adds the following to the list of actions that constitute grounds for discipline:
- Having been convicted of, or entered a plea of guilty or nolo contendere to, federal crimes related to money-laundering and the Bank Secrecy Act, regardless of adjudication.
- Having been convicted of, or entered a plea of guilty or nolo contendere to, a violation of federal rules promulgated by the Financial Crimes Enforcement Network (FinCEN) applicable to money services businesses, regardless of adjudication.
- Failing to provide notice of a security breach to the Florida Department of Legal Affairs and to affected individuals. (Section 5).

The bill provides that OFR is not required to follow the requirements of Florida's Administrative Procedure Act to summarily suspend the license of a money services business, and repeals the requirement for OFR to hold a proceeding to issue a final order for a summary suspension. (Section 5).

Instead, the bill requires OFR to issue an emergency suspension order if OFR finds that a licensee poses an immediate, serious danger to the public health, safety, and welfare. (Section 5).

The bill also requires OFR to immediately suspend a license, without making further findings of immediate danger, necessity, or procedural fairness, if any of the following occur:
- The money services business fails to provide OFR with required records upon written request;
- The money services business fails to maintain a federally insured depository account; or
- If a control person of the business (directors, officers, partners, and certain shareholders) is criminally charged with certain crimes. (Section 5).

Under current law, OFR is permitted, but not required to suspend a licensee upon making the aforesaid findings.[4]

Notice requirements for financial Institutions:
The bill requires financial institutions to take reasonable measures to protect and secure electronic data containing personal information. (Section 7).

The bill requires financial institutions to notify OFR upon the occurrence or detection of a data breach of security[5] affecting 500 or more people in which personal information may have been compromised, gathered, or distributed. (Section 7).

The written notice must be provided no later than 30 days after a determination that a breach has occurred or after the financial institution has reason to believe a breach occurred. The financial institution may receive an additional 15 days to provide the notice if good cause for the delay is provided in writing to OFR within 30 days after determination of the breach or after the institution has reason to believe that a breach occurred. (Section 7).

The written notice of the breach must contain:
- A synopsis of the events surrounding the breach at the time notice is provided.
- The number of individuals in this state who were or potentially have been affected by the breach.
- Any services related to the breach being offered or scheduled to be offered, without charge, by the covered entity to individuals, and instructions as to how to use such services.

[4] S. 560.114, F.S.
[5] The bill defines "Breach of security" or "breach" as the unauthorized access of data in electronic form containing personal information. Good faith access of personal information by an employee or agent of the covered entity does not constitute a breach of security, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use. S. 501.171, F.S.

- A copy or explanation of the notice required to individuals, if applicable.
- The name, address, telephone number, and e-mail address of the employee or agent of the covered entity from whom additional information may be obtained about the breach.
- Steps the institution has taken to rectify the breach.
- If requested, a police report, incident report, or computer forensics report and copy of the policies in place regarding breaches. (Section 7).

The bill defines "personal information" as:

- An individual's first name, or first initial, and last name, in combination with any of the following data for that individual.
  - A social security number.
  - A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document.
  - A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to the individual's financial account
  - The individual's biometric data.
- Any information regarding the individual's geolocation.
- A username or e-mail address, in combination with a password or security question and answer that would permit access to an online account. (Section 7).

The bill requires financial institutions to notify individuals whose personal information was accessed as a result of a breach. (Section 7).

The bill also requires financial institutions to notify all consumer reporting agencies that maintain files on consumers on a nationwide basis, if more than 1,000 individuals are affected by a security breach at a single time. (Section 7).

Examination fee deadlines for financial institutions and family trusts:
The bill increases the timeframe that financial institutions and family trusts have to remit payment to OFR for examination costs from 30 days to 45 days. (Sections 8 and 14).

Credit union requirements:
The bill changes the residency requirement for forming a credit union from requiring all members to be residents of Florida to instead requiring only a majority to be residents. (Section 9).

The bill permits members to hold meetings virtually and without an in person quorum, subject to the credit union's bylaws. (Section 10).

The bill repeals the current law provision that limits the amount that credit unions can invest in fixed assets such as real estate or equipment to 5%. Under the bill, credit unions are no longer subject to a limit. (Section 11).

Experience requirements for directors and officers of banks and trust companies:
The bill changes the requirement for CEOs, presidents, and directors of banks and trust companies to have had at least 1 year of experience as an executive officer, regulator, or director of a financial institution from within the last 5 years to within the last 10 years. (Section 12).

The bill also requires OFR to consider the following factors when deciding whether to approve a proposed president or chief executive officer (currently, OFR is only permitted to consider these factors when waiving the experience requirement):

- Adequacy of overall experience or expertise;
- Likelihood of successful operation of the proposed state bank or trust company;

- Adequacy of proposed capitalization;
- Proposed capital structure;
- Experience of other proposed officers and directors; and
- Any other relevant information. (Section 12).

Effective date:
The bill provides an effective date of July 1, 2026. (Section 16).

RULEMAKING:

The bill grants OFR rulemaking authority to adopt rules to implement the bill's cybersecurity requirements for mortgage and money services businesses. The bill authorizes OFR to adopt rules allowing a mortgage or money services business compliant with the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 C.F.R. part 314, to be deemed in compliance with the bill's information security program requirements. (Sections 1 and 6).

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:

There may be an indeterminate impact on state government, to the extent that OFR may incur costs to implement the bill.

PRIVATE SECTOR:

There may be an indeterminate impact on the private sector, to the extent that the regulated businesses incur compliance costs.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Office of Financial Regulation
OFR is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.[6] The Division of Consumer Finance within OFR licenses and regulates various aspects of the non-depository financial services industries, including mortgage and money services businesses.[7]

The Financial Services Commission ("Commission") is an executive agency within the Department of Financial Services and is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.[8]

Cybersecurity requirements for mortgage and money services businesses:

[6] S. 20.121(3)(a)(2), F.S.
[7] The OFR, Division of Consumer Finance, https://flofr.gov/divisions-offices/division-of-consumerfinance (last visited Jan. 14, 2026).
[8] S. 20.121(3), F.S.

Under Florida's consumer protection laws, businesses must take reasonable measures to protect and secure electronic data containing personal information.[9] Businesses are also required to notify the Florida Department of Legal Affairs of any data breaches affecting 500 or more individuals in Florida.[10] However, current law does not require OFR to be notified of such data breaches or provide OFR with authority to enforce any violation of the data security provisions in the consumer protection laws.[11]

Financial institutions[12] that are subject to the Federal Trade Commission's (FTC) jurisdiction are regulated under the Federal Standards for Safeguarding Customer Information (Safeguard Rules).[13] Financial institutions subject to the Safeguard Rules are required to develop, implement, and maintain a comprehensive written information security program that must be tailored to the size and complexity of the institution's system and activities, and must meet other specified criteria.[14] However, several of the Safeguard Rules do not apply to financial institutions that maintain customer information for fewer than 5,000 customers.[15]

Investment adviser registration:

Under the Florida Securities and Investor Protection Act, investment advisers must register with OFR, unless exempt.[16] "Investment adviser" means a person, other than an associated person of an investment adviser or a federal covered adviser,[17] that receives compensation, directly or indirectly, and engages for all or part of the person's time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities.[18]

Under the federal Investment Advisers Act of 1940, states may not require the registration of an investment adviser who:

- does not have a place of business within the state; and
- during the preceding 12 months, has had fewer than 6 clients who are residents of the state.[19]

Under current Florida law, persons are exempt from registering as an investment adviser if they have fewer than 6 clients who are residents of Florida, regardless of whether the person has a place of business in Florida or how many clients they have who are not residents of Florida.[20]

The Investment Advisers Act of 1940 excludes "family offices" from the definition of investment adviser for registration purposes.[21] A family office is an entity that has no other clients other than "family clients," is wholly owned or controlled by family clients, and does not hold itself out to the public as an investment adviser.[22] Family clients include family members, certain key employees, family trusts, and charities funded by the family.[23]

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[9] S. 501.171(2), F.S.
[10] S. 501.171(3), F.S.
[11] S. 501.171(9)(a), F.S.
[12] 16 C.F.R. 314.2 defines "financial institution" as any institution the business of which is engaging in activity that is financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k). An institution that is significantly engaged in financial activities, or significantly engaged in activities incidental to such financial activities, is a financial institution.
[13] 16 C.F.R. 314.1(b).
[14] 16 C.F.R. 314.3, 16 C.F.R. 314.4.
[15] 16 C.F.R. 314.6.
[16] S. 517.12, F.S.
[17] S. 517.021(14), F.S.
[18] S. 517.021(20)(a), F.S.
[19] 15 U.S.C. 80b-18a(d)
[20] S. 517.021(2)(b), F.S.
[21] 17 C.F.R. 275.202(a)(11)(G)-1(a).
[22] 17 C.F.R. 275.202(a)(11)(G)-1(b).
[23] 17 C.F.R. 275.202(a)(11)(G)-1(d)(4).

Financial technology sandbox:

The "Financial Technology Sandbox" ("Sandbox") aims to allow financial technology innovators to test new products and services in a supervised, flexible regulatory Sandbox, using exceptions from specified general law and waivers of the corresponding rule requirements under defined conditions.[24]

Before making an innovative financial product or service available to consumers in the Sandbox, a business entity must file an application for licensure with OFR.[25] The business entity must specify the general law or rule requirements for which an exception or waiver is sought and the reasons why these requirements prevent the innovative financial product or service from being made available to consumers.[26]

The application must also contain: [27]

- The nature of the innovative financial product or service;
- The potential risk to consumers, and the methods that will be used to protect consumers and resolve complaints during the sandbox period;
- The business plan proposed by the applicant, including company information, market analysis, and financial projections or pro forma financial statements, and evidence of the financial viability of the applicant;
- Whether the applicant has the necessary personnel, adequate financial and technical expertise, and a sufficient plan to test, monitor, and assess the innovative financial product or service;
- If any control person has pled no contest to, has been convicted or found guilty of, or is currently under investigation for, fraud, a state or federal securities violation, any property based offense, or any crime involving moral turpitude or dishonest dealing. A plea of no contest, a conviction, or a finding of guilt must be reported regardless of adjudication;
- A copy of the disclosures that will be provided to consumers;
- The financial responsibility of any control person; and
- Any other factor that OFR determines to be relevant.

Disciplinary actions for Money Services Businesses:

OFR regulates money services businesses under ch. 560, F.S. A "money service business" is defined as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.[28]

OFR has authority to discipline money services business for specified actions, such as failing to comply with the provisions of ch. 560, F.S., certain fraud or misrepresentation conduct, and refusing to allow the examination or inspection of books or files.[29] Section 560.114, F.S., provides for the following disciplinary actions: [30]

- Issuing a cease and desist order;
- Issuing a removal order; or
- Denying, suspending, or revoking a license.[31]

[24] S. 559.952, F.S.
[25] S. 559.952(5)(b), F.S.
[26] *Id.*
[27] S. 559.952(5), F.S.
[28] S. 560.103(23), F.S.
[29] S. 560.114, F.S.
[30] S. 120.60(6), F.S.
[31] *Id.*

Under current law, OFR must issue emergency suspension orders in compliance with Florida's Administrative Procedure Act, which requires: [32]

- The agency to find an immediate serious danger to the public health, safety, or welfare that requires emergency suspension, restriction, or limitation of a license;
- The procedure to provide at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution;
- The agency to only take action that is necessary to protect the public interest under the emergency procedure;
- The agency to state in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. (The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable); and
- An agency to promptly institute and act upon an administrative action if a summary suspension, restriction, or limitation is ordered.

The federal Bank Secrecy Act[33] establishes reporting, recordkeeping, and related requirements for federal and state-chartered financial institutions to help detect and prevent money laundering.[34] Specifically, the Bank Secrecy Act and other anti-money laundering regulations (BSA/AML) require financial institutions to, among other things, keep records of cash purchases of negotiable instruments and file reports of cash transactions exceeding $10,000 (daily aggregate amount).[35]

The Financial Crimes Enforcement Network ("FinCEN"), a bureau of the United States Department of Treasury is responsible for safeguarding the financial system from illegal use, combatting money laundering and related crimes, and promoting national security.[36] Unless an exception applies, a money services business must register with FinCEN.[37]

Notice requirements for financial institutions:
Financial institutions that are subject to the Federal Trade Commission's (FTC) jurisdiction are regulated under the Federal Standards for Safeguarding Customer Information (Safeguard Rules).[38] A financial institution must notify the FTC of a notification event that involves information of 5,000 or more consumers.[39]

Section 501.171, F.S., provides covered entities, governmental entities, and third-party agents are required to take reasonable measures to protect and secure electronic data containing personal information.[40] When the security of a data system is breached, a covered entity must provide notice to the Department of Legal Affairs, affected individuals, and credit reporting agencies in certain circumstances.[41]

Under current law, financial institutions are not required to notify OFR of a security breach.

[32] S. 120.60, F.S.
[33] 31 U.S.C. 5311 et seq.
[34] U.S. Treasury Financial Crimes Enforcement Network, FinCEN's Legal Authorities, https://www.fincen.gov/resources/fincens-legal-authorities (last visited Jan. 16, 2026).
[35] *Id.*
[36] 31 U.S.C. §. 310.
[37] 31 C.F.R. §. 1022.380(a).
[38] 16 C.F.R. 314.1(b).
[39] 16 C.F.R. 314.4(j)(1).
[40] S. 501.171(2), F.S.
[41] S. 501.171(3), F.S., S. 501.171(4), F.S.,

Examination fee deadlines for financial institutions and family trusts:
Under current law, OFR examines financial institutions at least every 18-months but is permitted to investigate them more frequently based on risk factors.[42]

The institutions are required to pay a fee for the costs of OFR's examination, including the salary and travel expenses of staff attributable to the examination.[43] Any costs a financial institution pays by mail must be postmarked within 30 days after the date of receipt of the notice stating that such costs are due.[44]

Under current law, OFR is permitted to conduct an examination of a licensed family trust company at any time it deems necessary.[45] The family trust companies are required to pay a fee for the costs of OFR's examination, including the salary and travel expenses of staff attributable to the examination.[46] Any costs mailed by a trust company must be postmarked within 30 days after the receipt of a notice stating that the costs are due.[47]

A family trust company is a corporation or limited liability company that is exclusively owned by family members, acts as a fiduciary to serve family members, and generally may not serve as a fiduciary for a person that is not a family.[48]

Credit union requirements:
A credit union must have a federal or state charter to operate in Florida. Credit unions are chartered and regulated as a national credit union by the National Credit Union Association (NCUA).[49] The Florida Financial Institutions Codes apply to all state-chartered credit unions.[50]

Florida law provides that any person may be admitted to a credit union upon payment of any required fee, payment of shares, and compliance with the credit union bylaws.[51] State-chartered credit unions operate as financial institutions except for exercising certain incidental powers authorized by law.[52] An application must be filed with OFR to organize a credit union.[53]

Any five or more residents of Florida who represent a limited field of membership may apply for permission to organize a credit union.[54] All members must be Florida residents. Members are required to notice and hold the annual meeting and any special meetings of the members at the time, place, and in the manner provided in the bylaws.[55]

[42] S. 655.045, F.S.
[43] *Id.*
[44] *Id.*
[45] S. 662.141, F.S.
[46] *Id.*
[47] *Id.*
[48] S. 662.111(12), F.S.
[49] The NCUA, Overview of the Charter Application Process, April 14, 2022, available at https://ncua.gov/regulation-supervision/manuals-guides/federal-credit-union-charter-application-guide/overview-charter-application-process (last visited Jan. 6, 2026).
[50] S. 655.005(1)(k), F.S.
[51] S. 657.023(1), F.S.
[52] S. 657.031(3), F.S.
[53] S. 657.005(1), F.S.
[54] S. 657.005(2), F.S.
[55] S. 657.024(1), F.S.

Florida law regulates how credit unions may invest funds. There are no limits with respect to investing in some assets, for instance United States Treasury bonds. However, Florida does have investment limits on other asset classes including:[56]

- Up to 5% of capital in fixed-assets such as real estate, improvements, furniture, fixtures, and equipment used for business. Credit unions may exceed the 5% limit with OFR approval, if:
  - The investment is necessary and appropriate for the credit union's size and needs;
  - The investment benefits members; and
  - A plan exists to reduce the investment to statutory limits over time.

In 2015, the NCUA removed the federal regulation that restricted federal credit unions from investing more than five percent aggregate in fixed-asset investments.[57]

Experience requirements for directors and officers of banks and trust companies:
A financial institution must have a federal or state charter to accept deposits. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency (OCC) within the U.S. Department of the Treasury or as state banks by a state regulator.[58] The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, and related entities.[59]

OFR is required to make certain findings before approving an application to organize a bank or trust company.[60] One such finding is that the proposed directors and officers must have sufficient financial institution experience, ability, standing, and reputation to indicate a reasonable promise of successful operation.[61]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Brackett	Highsmith
Information Technology Budget & Policy Subcommittee				
Commerce Committee				

[56] S. 657.042, F.S.
[57] The NCUA, Fixed-Asset Rule Provides Relief to More than 3,800 Federal Credit Unions, July 2015, available at https://ncua.gov/newsroom/news/2015/fixed-asset-rule-provides-relief-more-3800-federal-credit-unions (last visited Jan. 13, 2026).
[58] Congressional Research Service, Introduction to Financial Services: Banking, p. 1, January 5, 2023, available at: https://crsreports.congress.gov/product/pdf/IF/IF10035 (last visited Jan. 6, 2026).
[59] S. 655.005(1)(k), F.S.
[60] S. 658.21, F.S.
[61] S. 658.21(4)(a), F.S.

A bill to be entitled

An act relating to the Office of Financial Regulation; creating s. 494.00123, F.S.; providing definitions; requiring loan originators, mortgage brokers, and mortgage lenders to develop, implement, and maintain comprehensive written information security programs for the protection of information systems and nonpublic personal information; providing requirements for such programs; requiring loan originators, mortgage brokers, and mortgage lenders to establish written incident response plans for specified purposes; providing requirements for such plans; providing applicability; providing compliance requirements under specified circumstances; requiring loan originators, mortgage brokers, and mortgage lenders to maintain copies of information security programs for a specified timeframe and to make them available to the Office of Financial Regulation under certain circumstances; requiring loan originators, mortgage brokers, and mortgage lenders and certain entities to conduct investigations of cybersecurity events under certain circumstances; providing requirements for such investigations; providing requirements for records and documentation maintenance; providing requirements for notices of

security breaches; providing construction; providing rulemaking authority; amending s. 494.00255, F.S.; providing additional acts that constitute a ground for specified disciplinary actions against loan originators and mortgage brokers; amending s. 517.021, F.S.; revising the definition of the term "investment adviser" and defining the term "place of business"; amending s. 559.952, F.S.; revising definitions; removing the definition of the term "innovative"; revising the list of general law provisions that are waived upon approval of a Financial Technology Sandbox application; revising conditions under which a waiver of a requirement may be granted; providing that provisions applicable to the Financial Technology Sandbox innovative financial products and services apply to Financial Technology Sandbox financial products and services; revising the criteria for the office to consider when deciding whether to approve or deny an application for licensure; authorizing, rather than requiring, the office to specify the maximum number of consumers authorized to receive financial products and services from a Financial Technology Sandbox applicant; removing provisions that limit the number of such customers; revising construction; amending s. 560.114, F.S.; specifying the entities

that are subject to certain disciplinary actions and penalties; revising the list of actions by money services businesses which constitute grounds for certain disciplinary actions and penalties; requiring, rather than authorizing, the office to suspend licenses of money services businesses under certain circumstances; s. 560.1311, F.S.; providing definitions; requiring money services businesses to develop, implement, and maintain comprehensive written information security programs for the protection of information systems and nonpublic personal information; providing requirements for such programs; requiring money services businesses to establish written incident response plans for specified purposes; providing requirements for such plans; providing applicability; providing compliance requirements under specified circumstances; requiring money services businesses to maintain copies of information security programs for a specified timeframe and to make them available to the office under certain circumstances; requiring money services businesses and certain entities to conduct investigations of cybersecurity events under certain circumstances; providing requirements for such investigations; providing requirements for records and

documentation maintenance; providing requirements for notices of security breaches; providing construction; providing rulemaking authority; creating s. 655.0171, F.S.; providing definitions; requiring financial institutions to take measures to protect and secure certain data that contain personal information; providing requirements for notices of security breaches to the office, the Department of Legal Affairs, certain individuals, and certain credit reporting agencies; amending s. 655.045, F.S.; revising the timeline for the mailing of payment for salary and travel expenses of certain field staff; amending s. 657.005, F.S.; revising requirements for permission to organize credit unions; amending s. 657.024, F.S.; authorizing meetings of credit union members to be held virtually and without quorums under certain circumstances; amending s. 657.042, F.S.; removing provisions that impose limitations on investments in real estate and equipment for credit unions; amending s. 658.21, F.S.; revising requirements and factors for approving applications for organizing banks and trust companies; amending s. 658.33, F.S.; revising requirements for directors of certain banks and trust companies; amending s. 662.141, F.S.; revising the timeline for the mailing

of payment for the salary and travel expenses of certain field staff; amending s. 517.12, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Section 494.00123, Florida Statutes, is created to read:

494.00123 Information security programs; cybersecurity event investigations.—

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

(a) "Customer" means a person who seeks to obtain or who obtains or has obtained a financial product or service from a licensee.

(b) "Customer information" means any record containing nonpublic personal information about a customer of a financial transaction, whether on paper, electronic, or in other forms, which is handled or maintained by or on behalf of the licensee or its affiliates.

(c) "Cybersecurity event" means an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form.

(d) "Financial product or service" means any product or

service offered by a licensee under this chapter.

(e) "Information security program" means the administrative, technical, or physical safeguards used to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information.

(f) "Information system" means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic information, as well as any specialized system such as an industrial process control system, telephone switching and private branch exchange system, or environmental control system, which contain customer information or which are connected to a system that contains customer information.

(g) "Licensee" means a person licensed under this chapter.

(h)1. "Nonpublic personal information" means:

a. Personally identifiable financial information; and

b. Any list, description, or other grouping of customers that is derived using any personally identifiable financial information that is not publicly available, such as account numbers, including any list of individuals' names and street addresses that is derived, in whole or in part, using personally identifiable financial information that is not publicly available.

2. The term does not include:

a. Publicly available information, except as included on a list, description, or other grouping of customers described in sub-subparagraph 1.b.;

b. Any list, description, or other grouping of consumers, or any publicly available information pertaining to such list, description, or other grouping of consumers, which is derived without using any personally identifiable financial information that is not publicly available; or

c. Any list of individuals' names and addresses that contains only publicly available information, is not derived, in whole or in part, using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a customer of a licensee.

3. As used in this paragraph, the term:

a.(I) "Personally identifiable financial information" means any information that:

(A) A customer provides to a licensee to obtain a financial product or service, such as information that a customer provides to a licensee on an application to obtain a loan or other financial product or service;

(B) A licensee receives about a consumer that is obtained during or as a result of any transaction involving a financial product or service between the licensee and the customer, such as information collected through an information-collecting

device from a web server; or

(C) A licensee otherwise obtains about a customer in connection with providing a financial product or service to the customer, such as the fact that an individual is or has been one of the licensee's customers or has obtained a financial product or service from the licensee.

(II) The term "personally identifiable financial information" does not include:

(A) A list of names and addresses of customers of an entity that is not a financial institution; or

(B) Information that does not identify a customer, such as blind data or aggregate information that does not contain personal identifiers such as account numbers, names, or addresses.

b.(I) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(A) Federal, state, or local government records, such as government real estate records or security interest filings;

(B) Widely distributed media, such as information from a telephone records repository or directory, a television or radio program, a newspaper, a social media platform, or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so

long as access is available to the general public; or

(C) Disclosures to the general public which are required to be made by federal, state, or local law.

(II) As used in this sub-subparagraph, the term "reasonable basis to believe is lawfully made available to the general public" relating to any information means that the person has taken steps to determine:

(A) That the information is of the type that is available to the general public, such as information included on the public record in the jurisdiction where the mortgage would be recorded; and

(B) Whether an individual can direct that the information not be made available to the general public and, if so, the customer to whom the information relates has not done so, such as when a telephone number is listed in a telephone directory and the customer has informed the licensee that the telephone number is not unlisted.

(i) "Third-party service provider" means a person, other than a licensee, which contracts with a licensee to maintain, process, or store nonpublic personal information, or is otherwise permitted access to nonpublic personal information through its provision of services to a licensee.

(2) INFORMATION SECURITY PROGRAM.—

(a) Each licensee shall develop, implement, and maintain a comprehensive written information security program that contains

administrative, technical, and physical safeguards for the protection of the licensee's information system and nonpublic personal information.

(b) Each licensee shall ensure that the information security program meets all of the following criteria:

1. Be commensurate with the following measures:

a. Size and complexity of the licensee.

b. Nature and scope of the licensee's activities, including the licensee's use of third-party service providers.

c. Sensitivity of nonpublic personal information that is used by the licensee or that is in the licensee's possession, custody, or control.

2. Be designed to do all of the following:

a. Protect the security and confidentiality of nonpublic personal information and the security of the licensee's information system.

b. Protect against threats or hazards to the security or integrity of nonpublic personal information and the licensee's information system.

c. Protect against unauthorized access to or the use of nonpublic personal information and minimize the likelihood of harm to any customer.

3. Define and periodically reevaluate the retention schedule and the mechanism for the destruction of nonpublic personal information if retention is no longer necessary for the

licensee's business operations or is no longer required by applicable law.

4. Regularly test and monitor systems and procedures for the detection of actual and attempted attacks on, or intrusions into, the licensee's information system.

5. Be monitored, evaluated, and adjusted, as necessary, to meet all of the following requirements:

a. Determine whether the licensee's information security program is consistent with relevant changes in technology.

b. Confirm the licensee's information security program accounts for the sensitivity of nonpublic personal information.

c. Identify changes that may be necessary to the licensee's information system.

d. Eliminate any internal or external threats to nonpublic personal information.

e. Amend the licensee's information security program for any of the licensee's changing business arrangements, including, but not limited to, mergers and acquisitions, alliances and joint ventures, and outsourcing arrangements.

(c)1. As part of a licensee's information security program, the licensee shall establish a written incident response plan designed to promptly respond to, and recover from, a cybersecurity event that compromises:

a. The confidentiality, integrity, or availability of nonpublic personal information in the licensee's possession;

b. The licensee's information system; or

c. The continuing functionality of any aspect of the licensee's operations.

2. The written incident response plan must address all of the following:

a. The licensee's internal process for responding to a cybersecurity event.

b. The goals of the licensee's incident response plan.

c. The assignment of clear roles, responsibilities, and levels of decisionmaking authority for the licensee's personnel that participate in the incident response plan.

d. External communications, internal communications, and information sharing related to a cybersecurity event.

e. The identification of remediation requirements for weaknesses identified in information systems and associated controls.

f. The documentation and reporting regarding cybersecurity events and related incident response activities.

g. The evaluation and revision of the incident response plan, as appropriate, following a cybersecurity event.

h. The process by which notice must be given as required under subsection (4) and s. 501.171(3) and (4).

(d)1. This section does not apply to a licensee that has fewer than:

a. Twenty individuals on its workforce, including

employees and independent contractors; or

b. Five hundred customers during a calendar year.

2. A licensee that no longer qualifies for exemption under subparagraph 1. has 180 calendar days to comply with this section after the date of the disqualification.

(e) Each licensee shall maintain a copy of the information security program for a minimum of 5 years and shall make it available to the office upon request or as part of an examination.

(3) CYBERSECURITY EVENT INVESTIGATION.—

(a) If a licensee discovers that a cybersecurity event has occurred or that a cybersecurity event may have occurred, the licensee, or an outside vendor or third-party service provider that the licensee has designated to act on its behalf, shall conduct a prompt investigation of the cybersecurity event.

(b) During the investigation, the licensee, or the outside vendor or third-party service provider that the licensee has designated to act on its behalf, shall, at a minimum, determine as much of the following as possible:

1. Confirm that a cybersecurity event has occurred.

2. Identify the date that the cybersecurity event first occurred.

3. Assess the nature and scope of the cybersecurity event.

4. Identify all nonpublic personal information that may have been compromised by the cybersecurity event.

5. Perform or oversee reasonable measures to restore the security of any compromised information system in order to prevent further unauthorized acquisition, release, or use of nonpublic personal information that is in the licensee's, outside vendor's, or third-party service provider's possession, custody, or control.

(c) If a licensee learns that a cybersecurity event has occurred, or may have occurred, in an information system maintained by a third-party service provider of the licensee, the licensee shall complete an investigation in compliance with this section or confirm and document that the third-party service provider has completed an investigation in compliance with this section.

(d) A licensee shall maintain all records and documentation related to the licensee's investigation of a cybersecurity event for a minimum of 5 years after the date of the cybersecurity event and shall produce the records and documentation to the office upon request.

(4) NOTICE TO OFFICE OF SECURITY BREACH.—

(a) Each licensee shall provide notice to the office of any breach of security affecting 500 or more individuals in this state at a time and in the manner prescribed by commission rule.

(b) Each licensee shall, upon the office's request, provide a quarterly update of a cybersecurity event investigation under subsection (3) until conclusion of the

investigation.

(5) CONSTRUCTION.—This section may not be construed to relieve a covered entity from complying with s. 501.171. To the extent a licensee is a covered entity, as defined in s. 501.171(1), the licensee remains subject to s. 501.171.

(6) RULES.—The commission may adopt rules to administer this section, including rules that allow a licensee that is in full compliance with the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 C.F.R. part 314, to be deemed in compliance with subsection (2).

Section 2. Paragraph (z) is added to subsection (1) of section 494.00255, Florida Statutes, to read:

494.00255 Administrative penalties and fines; license violations.—

(1) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (2) may be taken against a person licensed or required to be licensed under part II or part III of this chapter:

(z) Failure to comply with the notification requirements in s. 501.171(3) and (4).

Section 3. Subsections (28) through (36) of section 517.021, Florida Statutes, are renumbered as subsections (29) through (37), respectively, subsection (20) is amended, and a new subsection (28) is added to that section, to read:

517.021 Definitions.—When used in this chapter, unless the

context otherwise indicates, the following terms have the following respective meanings:

(20)(a) "Investment adviser" means a person, other than an associated person of an investment adviser or a federal covered adviser, that receives compensation, directly or indirectly, and engages for all or part of the person's time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities.

(b) The term does not include any of the following:

1. A dealer or an associated person of a dealer whose performance of services in paragraph (a) is solely incidental to the conduct of the dealer's or associated person's business as a dealer and who does not receive special compensation for those services.

2. A licensed practicing attorney or certified public accountant whose performance of such services is solely incidental to the practice of the attorney's or accountant's profession.

3. A bank authorized to do business in this state.

4. A bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state.

5. A trust company having trust powers, as defined in s.

658.12, which it is authorized to exercise in this state, which trust company renders or performs investment advisory services in a fiduciary capacity incidental to the exercise of its trust powers.

6. A person that renders investment advice exclusively to insurance or investment companies.

7. A person:

a. Without a place of business in this state if the person has had ~~that~~, during the preceding 12 months, ~~has~~ fewer than six clients who are residents of this state.

b. With a place of business in this state if the person has had, during the preceding 12 months, fewer than six clients who are residents of this state and no clients who are not residents of this state.

As used in this subparagraph, the term "client" has the same meaning as provided in Securities and Exchange Commission Rule 222-2 ~~275.222-2~~, 17 C.F.R. s. 275.222-2, as amended.

8. A federal covered adviser.

9. The United States, a state, or any political subdivision of a state, or any agency, authority, or instrumentality of any such entity; a business entity that is wholly owned directly or indirectly by such a governmental entity; or any officer, agent, or employee of any such governmental or business entity who is acting within the scope

of his or her official duties.

10. A family office as defined in Securities and Exchange Commission Rule 202(a)(11)(G)-1(b) and (d) under the Investment Advisers Act of 1940, 17 C.F.R. s. 275. 202(a)(11)(G)-1(b) and (d), as amended, without giving regard to paragraph 1(a) or paragraph 1(c) of that rule.

(28) "Place of business" of an investment adviser means an office at which the investment adviser regularly provides investment advisory services, solicits, meets with, or otherwise communicates with clients; and any other location that is held out to the general public as a location at which the investment adviser provides investment advisory services, solicits, meets with, or otherwise communicates with clients.

Section 4. Section 559.952, Florida Statutes, is amended to read:

559.952 Financial Technology Sandbox.—

(1) SHORT TITLE.—This section may be cited as the "Financial Technology Sandbox."

(2) CREATION OF THE FINANCIAL TECHNOLOGY SANDBOX.—There is created the Financial Technology Sandbox within the Office of Financial Regulation to allow financial technology innovators to test new products and services in a supervised, flexible regulatory sandbox using ~~exceptions to specified general law and~~ waivers of specified provisions of general law and the corresponding rule requirements under defined conditions. The

creation of a supervised, flexible regulatory sandbox provides a welcoming business environment for technology innovators and may lead to significant business growth.

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

(a) "Business entity" means any corporation, limited liability company, or trust that may or may not be fictitiously named and that does business in this state ~~a domestic corporation or other organized domestic entity with a physical presence, other than that of a registered office or agent or virtual mailbox, in this state~~.

(b) "Commission" means the Financial Services Commission.

(c) "Consumer" means a person in this state, whether a natural person or a business organization, who purchases, uses, receives, or enters into an agreement to purchase, use, or receive a ~~an innovative~~ financial product or service made available through the Financial Technology Sandbox.

(d) "Control person" means an individual, a partnership, a corporation, a trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or through other means. A person is presumed to control a company if, with respect to a particular company, that person:

1. Is a director, a general partner, or an officer exercising executive responsibility or having similar status or

functions;

2. Directly or indirectly may vote 10 percent or more of a class of a voting security or sell or direct the sale of 10 percent or more of a class of voting securities; or

3. In the case of a partnership, may receive upon dissolution or has contributed 10 percent or more of the capital.

(e) "Corresponding rule requirements" means the commission rules, or portions thereof, which implement the general laws enumerated in paragraph (4)(a).

(f) "Financial product or service" means a product or service related to ~~a~~ consumer finance ~~loan, as defined in s. 516.01,~~ or credit, banking services, money transmission, or securities transactions ~~a money transmitter or payment instrument seller, as those terms are defined in s. 560.103, including mediums of exchange that are in electronic or digital form,~~ which is subject to the general laws enumerated in paragraph (4)(a) and corresponding rule requirements and which is under the jurisdiction of the office.

(g) "Financial Technology Sandbox" means the program created by this section which allows a licensee to make a ~~an innovative~~ financial product or service available to consumers during a sandbox period through waivers of ~~exceptions to~~ general laws and ~~waivers of~~ corresponding rule requirements.

~~(h) "Innovative" means new or emerging technology, or new~~

~~uses of existing technology, which provide a product, service, business model, or delivery mechanism to the public and which are not known to have a comparable offering in this state outside the Financial Technology Sandbox.~~

(h) ~~(i)~~ "Licensee" means a business entity that has been approved by the office to participate in the Financial Technology Sandbox.

(i) ~~(j)~~ "Office" means, unless the context clearly indicates otherwise, the Office of Financial Regulation.

(j) ~~(k)~~ "Sandbox period" means the initial 24-month period in which the office has authorized a licensee to make a ~~an innovative~~ financial product or service available to consumers, and any extension granted pursuant to subsection (7).

(4) WAIVERS OF ~~EXCEPTIONS TO~~ GENERAL LAW AND CORRESPONDING ~~WAIVERS OF~~ RULE REQUIREMENTS.—

(a) Notwithstanding any other law, upon approval of a Financial Technology Sandbox application, the office may grant an applicant during a sandbox period a waiver of a requirement, or a portion thereof, imposed by a general law or rule in any following chapter, or part thereof, if all of the conditions in paragraph (b) are met ~~following provisions and corresponding rule requirements are not applicable to the licensee during the sandbox period~~:

1. Chapter 516, Consumer Finance.

2. Chapter 517, Securities Transactions.

3. Chapter 520, Retail Installment Sales.

4. Chapter 537, Title Loans.

5. Part I or part II of chapter 560, General Provisions of Money Services Businesses or Payment Instruments and Funds Transmission.

6. Chapter 655, Financial Institutions Generally.

7. Chapter 657, Credit Unions.

8. Chapter 658, Banks and Trust Companies.

9. Chapter 660, Trust Business.

10. Chapter 662, Family Trust Companies.

11. Chapter 663, International Banking.

~~1. Section 516.03(1), except for the application fee, the investigation fee, the requirement to provide the social security numbers of control persons, evidence of liquid assets of at least $25,000 or documents satisfying the requirements of s. 516.05(10), and the office's authority to investigate the applicant's background. The office may prorate the license renewal fee for an extension granted under subsection (7).~~

~~2. Section 516.05(1) and (2), except that the office shall investigate the applicant's background.~~

~~3. Section 560.109, only to the extent that the section requires the office to examine a licensee at least once every 5 years.~~

~~4. Section 560.118(2).~~

~~5. Section 560.125(1), only to the extent that the~~

~~subsection would prohibit a licensee from engaging in the business of a money transmitter or payment instrument seller during the sandbox period.~~

~~6. Section 560.125(2), only to the extent that the subsection would prohibit a licensee from appointing an authorized vendor during the sandbox period. Any authorized vendor of such a licensee during the sandbox period remains liable to the holder or remitter.~~

~~7. Section 560.128.~~

~~8. Section 560.141, except for s. 560.141(1)(a)1., 3., 7.-10. and (b), (c), and (d).~~

~~9. Section 560.142(1) and (2), except that the office may prorate, but may not entirely eliminate, the license renewal fees in s. 560.143 for an extension granted under subsection (7).~~

~~10. Section 560.143(2), only to the extent necessary for proration of the renewal fee under subparagraph 9.~~

~~11. Section 560.204(1), only to the extent that the subsection would prohibit a licensee from engaging in, or advertising that it engages in, the activity of a payment instrument seller or money transmitter during the sandbox period.~~

~~12. Section 560.205(2).~~

~~13. Section 560.208(2).~~

~~14. Section 560.209, only to the extent that the office~~

~~may modify, but may not entirely eliminate, the net worth, corporate surety bond, and collateral deposit amounts required under that section. The modified amounts must be in such lower amounts that the office determines to be commensurate with the factors under paragraph (5)(c) and the maximum number of consumers authorized to receive the financial product or service under this section.~~

(b) The office may grant an applicant during a sandbox period a waiver of a requirement, or a portion thereof, imposed by a general law or rule in any chapter enumerated in paragraph (a) if all of the following conditions are met: ~~approve a Financial Technology Sandbox application if one or more of the general laws enumerated in paragraph (a) currently prevent the innovative financial product or service from being made available to consumers and if all other requirements of this section are met.~~

1. The general law or rule does not currently authorize the financial product or service to be made available to consumers.

2. The waiver is not broader than necessary to accomplish the purposes and standards specified in this section, as determined by the office.

3. Any provision relating to the liability of an incorporator, director, or officer of the applicant is not eligible for a waiver.

(c) A licensee may conduct business through electronic means, including through the Internet or a software application.

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

(a) Before filing an application for licensure under this section, a substantially affected person may seek a declaratory statement pursuant to s. 120.565 regarding the applicability of a statute, a rule, or an agency order to the petitioner's particular set of circumstances or a variance or waiver of a rule pursuant to s. 120.542.

(b) Before making a ~~an innovative~~ financial product or service available to consumers in the Financial Technology Sandbox, a business entity must file with the office an application for licensure under the Financial Technology Sandbox. The commission shall, by rule, prescribe the form and manner of the application and how the office will evaluate and apply each of the factors specified in paragraph (c).

1. The application must specify each general law enumerated in paragraph (4)(a) which currently prevents the ~~innovative~~ financial product or service from being made available to consumers and the reasons why those provisions of general law prevent the ~~innovative~~ financial product or service from being made available to consumers.

2. The application must contain sufficient information for the office to evaluate the factors specified in paragraph (c).

3. An application submitted on behalf of a business entity must include evidence that the business entity has authorized the person to submit the application on behalf of the business entity intending to make a ~~an innovative~~ financial product or service available to consumers.

4. The application must specify the maximum number of consumers, which may not exceed the number of consumers specified in paragraph (f), to whom the applicant proposes to provide the ~~innovative~~ financial product or service.

5. The application must include a proposed draft of the statement or statements meeting the requirements of paragraph (6)(b) which the applicant proposes to provide to consumers.

(c) The office shall approve or deny in writing a Financial Technology Sandbox application within 60 days after receiving the completed application. The office and the applicant may jointly agree to extend the time beyond 60 days. Consistent with this section, the office may impose conditions on any approval. In deciding whether to approve or deny an application for licensure, the office must consider each of the following:

1. The nature of the ~~innovative~~ financial product or service proposed to be made available to consumers in the Financial Technology Sandbox, including all relevant technical details.

~~2. The potential risk to consumers and the methods that~~

~~will be used to protect consumers and resolve complaints during the sandbox period.~~

2.~~3.~~ The business plan proposed by the applicant, including company information~~, market analysis, and financial projections or pro forma financial statements, and evidence of the financial viability of the applicant~~.

~~4. Whether the applicant has the necessary personnel, adequate financial and technical expertise, and a sufficient plan to test, monitor, and assess the innovative financial product or service.~~

3.~~5.~~ Whether any control person of the applicant, regardless of adjudication, has pled no contest to, has been convicted or found guilty of, or is currently under investigation for fraud, a state or federal securities violation, a property-based offense, or a crime involving moral turpitude or dishonest dealing, in which case the application to the Financial Technology Sandbox must be denied.

4.~~6.~~ A copy of the disclosures that will be provided to consumers under paragraph (6)(b).

5.~~7.~~ The financial responsibility of the applicant and any control person, including whether the applicant or any control person has a history of unpaid liens, unpaid judgments, or other general history of nonpayment of legal debts, including, but not limited to, having been the subject of a petition for bankruptcy under the United States Bankruptcy Code within the past 7

calendar years.

6.~~8.~~ Any other factor that the office determines to be relevant.

(d) The office may not approve an application if:

1. The applicant had a prior Financial Technology Sandbox application that was approved and that related to a substantially similar financial product or service;

2. Any control person of the applicant was substantially involved in the development, operation, or management with another Financial Technology Sandbox applicant whose application was approved and whose application related to a substantially similar financial product or service; or

3. The applicant or any control person has failed to affirmatively demonstrate financial responsibility.

(e) Upon approval of an application, the office shall notify the licensee of the specific ~~that the licensee is exempt from the~~ provisions of general law ~~enumerated in paragraph (4)(a)~~ and the corresponding rule requirements that are waived during the sandbox period. The office shall post on its website notice of the approval of the application, a summary of the ~~innovative~~ financial product or service, and the contact information of the licensee.

(f) The office, on a case-by-case basis, may ~~shall~~ specify the maximum number of consumers authorized to receive a ~~an innovative~~ financial product or service, after consultation with

the Financial Technology Sandbox applicant. ~~The office may not authorize more than 15,000 consumers to receive the financial product or service until the licensee has filed the first report required under subsection (8). After the filing of that report, if the licensee demonstrates adequate financial capitalization, risk management processes, and management oversight, the office may authorize up to 25,000 consumers to receive the financial product or service.~~

(g) A licensee has a continuing obligation to promptly inform the office of any material change to the information provided under paragraph (b).

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

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

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

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

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

(6) OPERATION OF THE FINANCIAL TECHNOLOGY SANDBOX.—

(a) A licensee may make a ~~an innovative~~ financial product or service available to consumers during the sandbox period.

(b)1. Before a consumer purchases, uses, receives, or enters into an agreement to purchase, use, or receive a ~~an innovative~~ financial product or service through the Financial Technology Sandbox, the licensee must provide a written statement of all of the following to the consumer:

a. The name and contact information of the licensee.

b. That the financial product or service has been authorized to be made available to consumers for a temporary period by the office, under the laws of this state.

c. That the state does not endorse the financial product or service.

d. That the financial product or service is undergoing testing, may not function as intended, and may entail financial risk.

e. That the licensee is not immune from civil liability for any losses or damages caused by the financial product or service.

f. The expected end date of the sandbox period.

g. The contact information for the office and notification that suspected legal violations, complaints, or other comments related to the financial product or service may be submitted to the office.

h. Any other statements or disclosures required by rule of the commission which are necessary to further the purposes of this section.

2. The written statement under subparagraph 1. must contain an acknowledgment from the consumer, which must be retained for the duration of the sandbox period by the licensee.

(c) The office may enter into an agreement with a state, federal, or foreign regulatory agency to allow licensees under the Financial Technology Sandbox to make their products or services available in other jurisdictions. The commission shall adopt rules to implement this paragraph.

(d) The office may examine the records of a licensee at any time, with or without prior notice.

(7) EXTENSION AND CONCLUSION OF SANDBOX PERIOD.—

(a) A licensee may apply for one extension of the initial 24-month sandbox period for 12 additional months for a purpose specified in subparagraph (b)1. or subparagraph (b)2. A complete application for an extension must be filed with the office at least 90 days before the conclusion of the initial sandbox period. The office shall approve or deny the application for

extension in writing at least 35 days before the conclusion of the initial sandbox period. In determining whether to approve or deny an application for extension of the sandbox period, the office must, at a minimum, consider the current status of the factors previously considered under paragraph (5)(c).

(b) An application for an extension under paragraph (a) must cite one of the following reasons as the basis for the application and must provide all relevant supporting information:

1. Amendments to general law or rules are necessary to offer the ~~innovative~~ financial product or service in this state permanently.

2. An application for a license that is required in order to offer the ~~innovative~~ financial product or service in this state permanently has been filed with the office and approval is pending.

(c) At least 30 days before the conclusion of the initial 24-month sandbox period or the extension, whichever is later, a licensee shall provide written notification to consumers regarding the conclusion of the initial sandbox period or the extension and may not make the financial product or service available to any new consumers after the conclusion of the initial sandbox period or the extension, whichever is later, until legal authority outside of the Financial Technology Sandbox exists for the licensee to make the financial product or

service available to consumers. After the conclusion of the sandbox period or the extension, whichever is later, the business entity formerly licensed under the Financial Technology Sandbox may:

1. Collect and receive money owed to the business entity or pay money owed by the business entity, based on agreements with consumers made before the conclusion of the sandbox period or the extension.

2. Take necessary legal action.

3. Take other actions authorized by commission rule which are not inconsistent with this section.

(8) REPORT.—A licensee shall submit a report to the office twice a year as prescribed by commission rule. The report must, at a minimum, include financial reports and the number of consumers who have received the financial product or service.

(9) CONSTRUCTION.—A business entity whose Financial Technology Sandbox application is approved under this section:

(a) Shall be deemed to possess an appropriate license under any general law requiring state licensure or authorization.

(b) Does not obtain a property right.

(c) Is not, nor is its financial product or service, endorsed by this state, nor is this state subject to liability for losses or damages caused by the financial product or service.

~~(a) Is licensed under chapter 516, chapter 560, or both chapters 516 and 560, as applicable to the business entity's activities.~~

~~(b) Is subject to any provision of chapter 516 or chapter 560 not specifically excepted under paragraph (4)(a), as applicable to the business entity's activities, and must comply with such provisions.~~

~~(c) May not engage in activities authorized under part III of chapter 560, notwithstanding s. 560.204(2).~~

(10) VIOLATIONS AND PENALTIES.—

(a) A licensee who makes a ~~an innovative~~ financial product or service available to consumers in the Financial Technology Sandbox remains subject to:

1. Civil damages for acts and omissions arising from or related to any ~~innovative~~ financial product or services provided or made available by the licensee or relating to this section.

2. All criminal and consumer protection laws and any other statute not specifically excepted under paragraph (4)(a).

(b)1. The office may, by order, revoke or suspend a licensee's approval to participate in the Financial Technology Sandbox if:

a. The licensee has violated or refused to comply with this section, any statute not specifically excepted under paragraph (4)(a), a rule of the commission that has not been waived, an order of the office, or a condition placed by the

office on the approval of the licensee's Financial Technology Sandbox application;

b. A fact or condition exists that, if it had existed or become known at the time that the Financial Technology Sandbox application was pending, would have warranted denial of the application or the imposition of material conditions;

c. A material error, false statement, misrepresentation, or material omission was made in the Financial Technology Sandbox application; or

d. After consultation with the licensee, the office determines that continued testing of the ~~innovative~~ financial product or service would:

(I) Be likely to harm consumers; or

(II) No longer serve the purposes of this section because of the financial or operational failure of the financial product or service.

2. Written notice of a revocation or suspension order made under subparagraph 1. must be served using any means authorized by law. If the notice relates to a suspension, the notice must include any condition or remedial action that the licensee must complete before the office lifts the suspension.

(c) The office may refer any suspected violation of law to an appropriate state or federal agency for investigation, prosecution, civil penalties, and other appropriate enforcement action.

(d) If service of process on a licensee is not feasible, service on the office is deemed service on the licensee.

(11) RULES AND ORDERS.—

(a) The commission shall adopt rules to administer this section before approving any application under this section.

(b) The office may issue all necessary orders to enforce this section and may enforce these orders in accordance with chapter 120 or in any court of competent jurisdiction. These orders include, but are not limited to, orders for payment of restitution for harm suffered by consumers as a result of a ~~an innovative~~ financial product or service.

Section 5. Subsections (1) and (2) of section 560.114, Florida Statutes, are amended to read:

560.114 Disciplinary actions; penalties.—

(1) The following actions by a money services business, an authorized vendor, or a ~~affiliated~~ party that was affiliated at the time of commission of the actions constitute grounds for the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license; or taking any other action within the authority of the office pursuant to this chapter:

(a) Failure to comply with any provision of this chapter or related rule or order, or any written agreement entered into with the office.

(b) Fraud, misrepresentation, deceit, or gross negligence

in any transaction by a money services business, regardless of reliance thereon by, or damage to, a customer.

(c) Fraudulent misrepresentation, circumvention, or concealment of any matter that must be stated or furnished to a customer pursuant to this chapter, regardless of reliance thereon by, or damage to, such customer.

(d) False, deceptive, or misleading advertising.

(e) Failure to maintain, preserve, keep available for examination, and produce all books, accounts, files, or other documents required by this chapter or related rules or orders, by 31 C.F.R. ss. 1010.306, 1010.311, 1010.312, 1010.340, 1010.410, 1010.415, 1022.210, 1022.320, 1022.380, and 1022.410, or by an agreement entered into with the office.

(f) Refusing to allow the examination or inspection of books, accounts, files, or other documents by the office pursuant to this chapter, or to comply with a subpoena issued by the office.

(g) Failure to pay a judgment recovered in any court by a claimant in an action arising out of a money transmission transaction within 30 days after the judgment becomes final.

(h) Engaging in an act prohibited under s. 560.111 or s. 560.1115.

(i) Insolvency.

(j) Failure by a money services business to remove an affiliated party after the office has issued and served upon the

money services business a final order setting forth a finding that the affiliated party has violated a provision of this chapter.

(k) Making a material misstatement, misrepresentation, or omission in an application for licensure, any amendment to such application, or application for the appointment of an authorized vendor.

(l) Committing any act that results in a license or its equivalent, to practice any profession or occupation being denied, suspended, revoked, or otherwise acted against by a licensing authority in any jurisdiction.

(m) Being the subject of final agency action or its equivalent, issued by an appropriate regulator, for engaging in unlicensed activity as a money services business or deferred presentment provider in any jurisdiction.

(n) Committing any act resulting in a license or its equivalent to practice any profession or occupation being denied, suspended, revoked, or otherwise acted against by a licensing authority in any jurisdiction for a violation of 18 U.S.C. s. 1956, 18 U.S.C. s. 1957, 18 U.S.C. s. 1960, 31 U.S.C. s. 5324, or any other law or rule of another state or of the United States relating to a money services business, deferred presentment provider, or usury that may cause the denial, suspension, or revocation of a money services business or deferred presentment provider license or its equivalent in such

jurisdiction.

(o) Having been convicted of, or entered a plea of guilty or nolo contendere to, any felony or crime punishable by imprisonment of 1 year or more under the law of any state or the United States which involves fraud, moral turpitude, or dishonest dealing, regardless of adjudication.

(p) Having been convicted of, or entered a plea of guilty or nolo contendere to, a crime under 18 U.S.C. s. 1956 or 31 U.S.C. s. 5318, s. 5322, or s. 5324, regardless of adjudication.

(q) Having been convicted of, or entered a plea of guilty or nolo contendere to, misappropriation, conversion, or unlawful withholding of moneys belonging to others, regardless of adjudication.

(r) Having been convicted of, or entered a plea of guilty or nolo contendere to, a violation of 31 C.F.R. chapter X, part 1022, regardless of adjudication.

(s) ~~(r)~~ Failure to inform the office in writing within 30 days after having pled guilty or nolo contendere to, or being convicted of, any felony or crime punishable by imprisonment of 1 year or more under the law of any state or the United States, or any crime involving fraud, moral turpitude, or dishonest dealing.

(t) ~~(s)~~ Aiding, assisting, procuring, advising, or abetting any person in violating a provision of this chapter or any order or rule of the office or commission.

(u) ~~(t)~~ Failure to pay any fee, charge, or cost imposed or assessed under this chapter.

(v) ~~(u)~~ Failing to pay a fine assessed by the office within 30 days after the due date as stated in a final order.

(w) ~~(v)~~ Failure to pay any judgment entered by any court within 30 days after the judgment becomes final.

(x) ~~(w)~~ Engaging or advertising engagement in the business of a money services business or deferred presentment provider without a license, unless exempted from licensure.

(y) ~~(x)~~ Payment to the office for a license or other fee, charge, cost, or fine with a check or electronic transmission of funds that is dishonored by the applicant's or licensee's financial institution.

(z) ~~(y)~~ Violations of 31 C.F.R. ss. 1010.306, 1010.311, 1010.312, 1010.340, 1010.410, 1010.415, 1022.210, 1022.320, 1022.380, and 1022.410, and United States Treasury Interpretive Release 2004-1.

(aa) ~~(z)~~ Any practice or conduct that creates the likelihood of a material loss, insolvency, or dissipation of assets of a money services business or otherwise materially prejudices the interests of its customers.

(bb) ~~(aa)~~ Failure of a check casher to maintain a federally insured depository account as required by s. 560.309.

(cc) ~~(bb)~~ Failure of a check casher to deposit into its own federally insured depository account any payment instrument

cashed as required by s. 560.309.

(dd) ~~(cc)~~ Violating any provision of the Military Lending Act, 10 U.S.C. s. 987, or the regulations adopted under that act in 32 C.F.R. part 232, in connection with a deferred presentment transaction conducted under part IV of this chapter.

(ee) Failure to comply with the notification requirements in s. 501.171(3) and (4).

(2) ~~Pursuant to s. 120.60(6),~~ The office shall issue an emergency order suspending ~~may summarily suspend~~ the license of a money services business if the office finds that a licensee poses an immediate, serious danger to the public health, safety, and welfare. ~~A proceeding in which the office seeks the issuance of a final order for the summary suspension of a licensee shall be conducted by the commissioner of the office, or his or her designee, who shall issue such order.~~ The following acts are deemed by the Legislature to constitute an immediate and serious danger to the public health, safety, and welfare, and the office shall ~~may~~ immediately suspend the license of a money services business without making any further findings of immediate danger, necessity, and procedural fairness if:

(a) The money services business fails to provide to the office, upon written request, any of the records required by s. 560.123, s. 560.1235, s. 560.211, or s. 560.310 or any rule adopted under those sections. The suspension may be rescinded if the licensee submits the requested records to the office.

(b) The money services business fails to maintain a federally insured depository account as required by s. 560.208(4) or s. 560.309.

(c) A natural person required to be listed on the license application for a money services business pursuant to s. 560.141(1)(a)3. is criminally charged with, or arrested for, a crime described in paragraph (1)(o), paragraph (1)(p), or paragraph(1)(q).

Section 6. Section 560.1311, Florida Statutes, is created to read:

560.1311 Information security programs; cybersecurity event investigations.—

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

(a) "Customer" means a person who seeks to obtain or who obtains or has obtained a financial product or service from a licensee.

(b) "Customer information" means any record containing nonpublic personal information about a customer of a financial transaction, whether on paper, electronic, or in other forms, which is handled or maintained by or on behalf of the licensee or its affiliates.

(c) "Cybersecurity event" means an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form.

(d) "Financial product or service" means any product or service offered by a licensee under this chapter.

(e) "Information security program" means the administrative, technical, or physical safeguards used to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information.

(f) "Information system" means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic information, as well as any specialized system such as an industrial process control system, telephone switching and private branch exchange system, or environmental control system, which contain customer information or which are connected to a system that contains customer information.

(g)1. "Nonpublic personal information" means:

a. Personally identifiable financial information; and

b. Any list, description, or other grouping of customers that is derived using any personally identifiable financial information that is not publicly available, such as account numbers, including any list of individuals' names and street addresses that is derived, in whole or in part, using personally identifiable financial information that is not publicly available.

2. The term does not include:

a. Publicly available information, except as included on a list, description, or other grouping of customers described in sub-subparagraph 1.b.;

b. Any list, description, or other grouping of consumers, or any publicly available information pertaining to such list, description, or other grouping of consumers, which is derived without using any personally identifiable financial information that is not publicly available; or

c. Any list of individuals' names and addresses that contains only publicly available information, is not derived, in whole or in part, using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a customer of a licensee.

3. As used in this paragraph, the term:

a.(I) "Personally identifiable financial information" means any information that:

(A) A customer provides to a licensee to obtain a financial product or service, such as information that a customer provides to a licensee on an application to obtain a loan or other financial product or service;

(B) A licensee receives about a consumer that is obtained during or as a result of any transaction involving a financial product or service between the licensee and the customer, such as information collected through an information-collecting

device from a web server; or

(C) A licensee otherwise obtains about a customer in connection with providing a financial product or service to the customer, such as the fact that an individual is or has been one of the licensee's customers or has obtained a financial product or service from the licensee.

(II) The term "personally identifiable financial information" does not include:

(A) A list of names and addresses of customers of an entity that is not a financial institution; or

(B) Information that does not identify a customer, such as blind data or aggregate information that does not contain personal identifiers such as account numbers, names, or addresses.

b.(I) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(A) Federal, state, or local government records, such as government real estate records or security interest filings;

(B) Widely distributed media, such as information from a telephone records repository or directory, a television or radio program, a newspaper, a social media platform, or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so

long as access is available to the general public; or

(C) Disclosures to the general public which are required to be made by federal, state, or local law.

(II) As used in this sub-subparagraph, the term "reasonable basis to believe is lawfully made available to the general public" relating to any information means that the person has taken steps to determine:

(A) That the information is of the type that is available to the general public, such as information included on the public record in the jurisdiction where the mortgage would be recorded; and

(B) Whether an individual can direct that the information not be made available to the general public and, if so, the customer to whom the information relates has not done so, such as when a telephone number is listed in a telephone directory and the customer has informed the licensee that the telephone number is not unlisted.

(h) "Third-party service provider" means a person, other than a licensee, which contracts with a licensee to maintain, process, or store nonpublic personal information, or is otherwise permitted access to nonpublic personal information through its provision of services to a licensee.

(2) INFORMATION SECURITY PROGRAM.—

(a) Each licensee shall develop, implement, and maintain a comprehensive written information security program that contains

administrative, technical, and physical safeguards for the protection of the licensee's information system and nonpublic personal information.

(b) Each licensee shall ensure that the information security program meets all of the following criteria:

1. Be commensurate with the following measures:

a. Size and complexity of the licensee.

b. Nature and scope of the licensee's activities, including the licensee's use of third-party service providers.

c. Sensitivity of nonpublic personal information that is used by the licensee or that is in the licensee's possession, custody, or control.

2. Be designed to do all of the following:

a. Protect the security and confidentiality of nonpublic personal information and the security of the licensee's information system.

b. Protect against threats or hazards to the security or integrity of nonpublic personal information and the licensee's information system.

c. Protect against unauthorized access to or the use of nonpublic personal information and minimize the likelihood of harm to any customer.

3. Define and periodically reevaluate the retention schedule and the mechanism for the destruction of nonpublic personal information if retention is no longer necessary for the

licensee's business operations or is no longer required by applicable law.

4. Regularly test and monitor systems and procedures for the detection of actual and attempted attacks on, or intrusions into, the licensee's information system.

5. Be monitored, evaluated, and adjusted, as necessary, to meet all of the following requirements:

a. Determine whether the licensee's information security program is consistent with relevant changes in technology.

b. Confirm the licensee's information security program accounts for the sensitivity of nonpublic personal information.

c. Identify changes that may be necessary to the licensee's information system.

d. Eliminate any internal or external threats to nonpublic personal information.

e. Amend the licensee's information security program for any of the licensee's changing business arrangements, including, but not limited to, mergers and acquisitions, alliances and joint ventures, and outsourcing arrangements.

(c)1. As part of a licensee's information security program, the licensee shall establish a written incident response plan designed to promptly respond to, and recover from, a cybersecurity event that compromises:

a. The confidentiality, integrity, or availability of nonpublic personal information in the licensee's possession;

b. The licensee's information system; or

c. The continuing functionality of any aspect of the licensee's operations.

2. The written incident response plan must address all of the following:

a. The licensee's internal process for responding to a cybersecurity event.

b. The goals of the licensee's incident response plan.

c. The assignment of clear roles, responsibilities, and levels of decisionmaking authority for the licensee's personnel that participate in the incident response plan.

d. External communications, internal communications, and information sharing related to a cybersecurity event.

e. The identification of remediation requirements for weaknesses identified in information systems and associated controls.

f. The documentation and reporting regarding cybersecurity events and related incident response activities.

g. The evaluation and revision of the incident response plan, as appropriate, following a cybersecurity event.

h. The process by which notice must be given as required under subsection (4) and s. 501.171(3) and (4).

(d)1. This section does not apply to a licensee that has fewer than:

a. Twenty individuals on its workforce, including

employees and independent contractors; or

b. Five hundred customers during a calendar year.

2. A licensee that no longer qualifies for exemption under subparagraph 1. has 180 calendar days to comply with this section after the date of the disqualification.

(e) Each licensee shall maintain a copy of the information security program for a minimum of 5 years and shall make it available to the office upon request or as part of an examination.

(3) CYBERSECURITY EVENT INVESTIGATION.—

(a) If a licensee discovers that a cybersecurity event has occurred or that a cybersecurity event may have occurred, the licensee, or an outside vendor or third-party service provider that the licensee has designated to act on its behalf, shall conduct a prompt investigation of the cybersecurity event.

(b) During the investigation, the licensee, or the outside vendor or third-party service provider that the licensee has designated to act on its behalf, shall, at a minimum, determine as much of the following as possible:

1. Confirm that a cybersecurity event has occurred.

2. Identify the date that the cybersecurity event first occurred.

3. Assess the nature and scope of the cybersecurity event.

4. Identify all nonpublic personal information that may have been compromised by the cybersecurity event.

5. Perform or oversee reasonable measures to restore the security of any compromised information system in order to prevent further unauthorized acquisition, release, or use of nonpublic personal information that is in the licensee's, outside vendor's, or third-party service provider's possession, custody, or control.

(c) If a licensee learns that a cybersecurity event has occurred, or may have occurred, in an information system maintained by a third-party service provider of the licensee, the licensee shall complete an investigation in compliance with this section or confirm and document that the third-party service provider has completed an investigation in compliance with this section.

(d) A licensee shall maintain all records and documentation related to the licensee's investigation of a cybersecurity event for a minimum of 5 years after the date of the cybersecurity event and shall produce the records and documentation to the office upon request.

(4) NOTICE TO OFFICE OF SECURITY BREACH.—

(a) Each licensee shall provide notice to the office of any breach of security affecting 500 or more individuals in this state at a time and in the manner prescribed by commission rule.

(b) Each licensee shall, upon the office's request, provide a quarterly update of a cybersecurity event investigation under subsection (3) until conclusion of the

investigation.

(5) CONSTRUCTION.—This section may not be construed to relieve a covered entity from complying with s. 501.171. To the extent a licensee is a covered entity, as defined in s. 501.171(1), the licensee remains subject to s. 501.171.

(6) RULES.—The commission may adopt rules to administer this section, including rules that allow a licensee that is in full compliance with the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 C.F.R. part 314, to be deemed in compliance with subsection (2).

Section 7. Section 655.0171, Florida Statutes, is created to read:

655.0171 Requirements for customer data security and for notices of security breaches.—

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

(a) "Breach of security" or "breach" means unauthorized access of data in electronic form containing personal information. Good faith access of personal information by an employee or agent of a financial institution does not constitute a breach of security, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use. As used in this paragraph, the term "data in electronic form" means any data stored electronically or digitally on any computer system or other database and includes recordable tapes and other mass storage devices.

(b) "Department" means the Department of Legal Affairs.

(c)1. "Personal information" means:

a. An individual's first name, or first initial, and last name, in combination with any of the following data elements for that individual:

(I) A social security number;

(II) A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;

(III) A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to the individual's financial account;

(IV) The individual's biometric data as defined in s. 501.702; or

(V) Any information regarding the individual's geolocation; or

b. A username or e-mail address, in combination with a password or security question and answer that would permit access to an online account.

2. The term does not include information about an individual which has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by

any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.

(2) REQUIREMENTS FOR DATA SECURITY.—Each financial institution shall take reasonable measures to protect and secure data that are in electronic form and that contain personal information.

(3) NOTICE TO OFFICE AND DEPARTMENT OF SECURITY BREACH.—

(a)1. Each financial institution shall provide notice to the office of any breach of security affecting 500 or more individuals in this state. Such notice must be provided to the office as expeditiously as practicable, but no later than 30 days after the determination of the breach or the determination of a reason to believe that a breach has occurred.

2. The written notice to the office must include the items required under s. 501.171(3)(b).

3. A financial institution must provide the following information to the office upon its request:

a. A police report, incident report, or computer forensics report.

b. A copy of the policies in place regarding breaches.

4. Steps that have been taken to rectify the breach.

5. A financial institution may provide the office with supplemental information regarding a breach at any time.

(b) Each financial institution shall provide notice to the

department of any breach of security affecting 500 or more individuals in this state. Such notice must be provided to the department in accordance with s. 501.171.

(4) NOTICE TO INDIVIDUALS OF SECURITY BREACH.—Each financial institution shall give notice to each individual in this state whose personal information was, or the financial institution reasonably believes to have been, accessed as a result of the breach in accordance with s. 501.171(4). The notice must be provided no later than 30 days after the determination of the breach or the determination of a reason to believe that a breach has occurred. A financial institution may receive 15 additional days to provide notice to individuals of a security breach as required in this subsection if good cause for delay is provided in writing to the office within 30 days after determination of the breach or determination of the reason to believe that a breach has occurred.

(5) NOTICE TO CREDIT REPORTING AGENCIES.—If a financial institution discovers circumstances requiring notice pursuant to this section of more than 1,000 individuals at a single time, the financial institution shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p), of the timing, distribution, and content of the notices.

Section 8. Paragraph (d) of subsection (1) of section

655.045, Florida Statutes, is amended to read:

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

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

(d) As used in this section, the term "costs" means the salary and travel expenses directly attributable to the field staff examining the state financial institution, subsidiary, or service corporation, and the travel expenses of any supervisory staff required as a result of examination findings. The mailing of any costs incurred under this subsection must be postmarked within 45 ~~30~~ days after the date of receipt of a notice stating that such costs are due. The office may levy a late payment of up to $100 per day or part thereof that a payment is overdue, unless excused for good cause. However, for intentional late

payment of costs, the office may levy an administrative fine of up to $1,000 per day for each day the payment is overdue.

Section 9. Subsection (2) of section 657.005, Florida Statutes, is amended to read:

657.005 Application for authority to organize a credit union; investigation.—

(2) Any five or more individuals, a majority of whom are residents of this state and all of whom ~~who~~ represent a limited field of membership, may apply to the office for permission to organize a credit union. The fact that individuals within the proposed limited field of membership have credit union services available to them through another limited field of membership shall not preclude the granting of a certificate of authorization to engage in the business of a credit union.

Section 10. Subsection (1) of section 657.024, Florida Statutes, is amended to read:

657.024 Membership meetings.—

(1) The members shall receive timely notice of the annual meeting and any special meetings of the members, which shall be held at the time, place, and in the manner provided in the bylaws. The annual meeting and any special meetings of the members may be held virtually and without a quorum, subject to the bylaws.

Section 11. Subsections (6) and (7) of section 657.042, Florida Statutes, are renumbered as subsections (5) and (6), and

paragraph (b) of subsection (3) and present subsection (5) of that section are amended to read:

657.042 Investment powers and limitations.—A credit union may invest its funds subject to the following definitions, restrictions, and limitations:

(3) INVESTMENT SUBJECT TO LIMITATION OF TWO PERCENT OF CAPITAL OF THE CREDIT UNION.—

(b) Commercial paper and bonds of any corporation within the United States which have a fixed maturity, as provided in subsection (6) ~~(7)~~, except that the total investment in all such paper and bonds may not exceed 10 percent of the capital of the credit union.

~~(5) INVESTMENTS IN REAL ESTATE AND EQUIPMENT FOR THE CREDIT UNION.—~~

~~(a) Up to 5 percent of the capital of the credit union may be invested in real estate and improvements thereon, furniture, fixtures, and equipment utilized or to be utilized by the credit union for the transaction of business.~~

~~(b) The limitations provided by this subsection may be exceeded with the prior written approval of the office. The office shall grant such approval if it is satisfied that:~~

~~1. The proposed investment is necessary.~~

~~2. The amount thereof is commensurate with the size and needs of the credit union.~~

~~3. The investment will be beneficial to the members.~~

~~4. A reasonable plan is developed to reduce the investment to statutory limits.~~

Section 12. Paragraphs (b) and (c) of subsection (4) of section 658.21, Florida Statutes, are amended to read:

658.21 Approval of application; findings required.—The office shall approve the application if it finds that:

(4)

(b) At least two of the proposed directors who are not also proposed officers must have had within the 10 years before the date of the application at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution as specified in the application ~~within the 5 years before the date of the application~~. ~~However, if the applicant demonstrates that at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution more than 5 years before the date of the application, the office may modify the requirement and allow the applicant to have only one director who has direct financial institution experience within the last 5 years.~~

(c) The proposed president or chief executive officer must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 10 ~~5~~ years. In making a decision, the office must also consider ~~may waive this requirement after considering~~:

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

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

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

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

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

6. Any other relevant data or information.

Section 13. Subsection (2) of section 658.33, Florida Statutes, is amended to read:

658.33 Directors, number, qualifications; officers.—

(2) Not less than a majority of the directors must, during their whole term of service, be citizens of the United States, and at least a majority of the directors must have resided in this state for at least 1 year preceding their election and must be residents therein during their continuance in office. In the case of a bank or trust company with total assets of less than $150 million, at least one, and in the case of a bank or trust company with total assets of $150 million or more, two of the directors who are not also officers of the bank or trust company must have had at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the last 10 ~~5~~ years.

Section 14. Subsection (4) of section 662.141, Florida Statutes, is amended to read:

662.141 Examination, investigations, and fees.—The office may conduct an examination or investigation of a licensed family trust company at any time it deems necessary to determine whether the licensed family trust company or licensed family trust company-affiliated party thereof has violated or is about to violate any provision of this chapter, any applicable provision of the financial institutions codes, or any rule adopted by the commission pursuant to this chapter or the codes. The office may conduct an examination or investigation of a family trust company or foreign licensed family trust company at any time it deems necessary to determine whether the family trust company or foreign licensed family trust company has engaged in any act prohibited under s. 662.131 or s. 662.134 and, if a family trust company or a foreign licensed family trust company has engaged in such act, to determine whether any applicable provision of the financial institutions codes has been violated.

(4) For each examination of the books and records of a family trust company, licensed family trust company, or foreign licensed family trust company as authorized under this chapter, the trust company shall pay a fee for the costs of the examination by the office. As used in this section, the term "costs" means the salary and travel expenses of field staff

which are directly attributable to the examination of the trust company and the travel expenses of any supervisory and support staff required as a result of examination findings. The mailing of payment for costs incurred must be postmarked within 45 ~~30~~ days after the receipt of a notice stating that the costs are due. The office may levy a late payment of up to $100 per day or part thereof that a payment is overdue unless waived for good cause. However, if the late payment of costs is intentional, the office may levy an administrative fine of up to $1,000 per day for each day the payment is overdue.

Section 15. Subsection (21) of section 517.12, Florida Statutes, is amended to read:

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

(21) The registration requirements of this section do not apply to any general lines insurance agent or life insurance agent licensed under chapter 626, with regard to the sale of a security as defined in s. 517.021(34)(g) ~~s. 517.021(33)(g)~~, if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

Section 16. This act shall take effect July 1, 2026.

INSURANCE & BANKING SUBCOMMITTEE

HB 381 by Rep. Barnaby
Office of Financial Regulation

AMENDMENT SUMMARY
January 21, 2026

Amendment by Rep. Barnaby (strike-all):

- Removes the requirements to perform cybersecurity investigation for mortgage and money services businesses, in order to maintain consistency with the Federal Trade Commission Safeguard Rules.
- Removes the provisions related to the financial technology sandbox.
- Revises the definition of "family office" to have the same meaning as in Securities and Exchange Commission rules.
- Provides that the rights and obligations of parties with respect to surrendered or repossessed motor vehicles are exclusively governed Florida's Uniform Commercial Code.
- Provides that debit cards shall be treated the same as cash when used to pay off deferred presentment transactions, meaning that debit cards shall immediately satisfy a transaction.
- Provides that credit cards cannot be used to pay off deferred presentment transactions (payday loans).
- Clarifies that licensees must comply with the Fair Debt Collections Practices Act only if the licensee uses a third-party debt collector.
- Clarifies that when OFR issues an emergency suspension order against a money services business licensee:
    - The order must state the grounds on which the order is based along with other information about the business's rights.
    - OFR must institute an administrative action within 20 days.
    - A business may seek judicial review of the emergency suspension order.

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Barnaby offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 494.00123, Florida Statutes, is created to read:

494.00123 Information security programs.—

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

(a) "Customer" means a person who seeks to obtain or who obtains or has obtained a financial product or service from a licensee.

(b) "Customer information" means any record containing nonpublic personal information about a customer of a financial transaction, whether on paper, electronic, or in other forms,

which is handled or maintained by or on behalf of the licensee or its affiliates.

(c) "Cybersecurity event" means an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form.

(d) "Financial product or service" means any product or service offered by a licensee under this chapter.

(e) "Information security program" means the administrative, technical, or physical safeguards used to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information.

(f) "Information system" means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic information, as well as any specialized system such as an industrial process control system, telephone switching and private branch exchange system, or environmental control system, which contain customer information or which are connected to a system that contains customer information.

(g) "Licensee" means a person licensed under this chapter.

(h)1. "Nonpublic personal information" means:

a. Personally identifiable financial information; and

b. Any list, description, or other grouping of customers that is derived using any personally identifiable financial information that is not publicly available, such as account numbers, including any list of individuals' names and street addresses that is derived, in whole or in part, using personally identifiable financial information that is not publicly available.

2. The term does not include:

a. Publicly available information, except as included on a list, description, or other grouping of customers described in sub-subparagraph 1.b.;

b. Any list, description, or other grouping of consumers, or any publicly available information pertaining to such list, description, or other grouping of consumers, which is derived without using any personally identifiable financial information that is not publicly available; or

c. Any list of individuals' names and addresses that contains only publicly available information, is not derived, in whole or in part, using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a customer of a licensee.

3. As used in this paragraph, the term:

a.(I) "Personally identifiable financial information" means any information that:

(A) A customer provides to a licensee to obtain a financial product or service, such as information that a customer provides to a licensee on an application to obtain a loan or other financial product or service;

(B) A licensee receives about a consumer that is obtained during or as a result of any transaction involving a financial product or service between the licensee and the customer, such as information collected through an information-collecting device from a web server; or

(C) A licensee otherwise obtains about a customer in connection with providing a financial product or service to the customer, such as the fact that an individual is or has been one of the licensee's customers or has obtained a financial product or service from the licensee.

(II) The term "personally identifiable financial information" does not include:

(A) A list of names and addresses of customers of an entity that is not a financial institution; or

(B) Information that does not identify a customer, such as blind data or aggregate information that does not contain personal identifiers such as account numbers, names, or addresses.

b.(I) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(A) Federal, state, or local government records, such as government real estate records or security interest filings;

(B) Widely distributed media, such as information from a telephone records repository or directory, a television or radio program, a newspaper, a social media platform, or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public; or

(C) Disclosures to the general public which are required to be made by federal, state, or local law.

(II) As used in this sub-subparagraph, the term "reasonable basis to believe is lawfully made available to the general public" relating to any information means that the person has taken steps to determine:

(A) That the information is of the type that is available to the general public, such as information included on the public record in the jurisdiction where the mortgage would be recorded; and

(B) Whether an individual can direct that the information not be made available to the general public and, if so, the customer to whom the information relates has not done so, such as when a telephone number is listed in a telephone directory and the customer has informed the licensee that the telephone number is not unlisted.

(i) "Third-party service provider" means a person, other than a licensee, which contracts with a licensee to maintain, process, or store nonpublic personal information, or is otherwise permitted access to nonpublic personal information through its provision of services to a licensee.

(2) INFORMATION SECURITY PROGRAM.—

(a) Each licensee shall develop, implement, and maintain a comprehensive written information security program that contains administrative, technical, and physical safeguards for the protection of the licensee's information system and nonpublic personal information.

(b) Each licensee shall ensure that the information security program meets all of the following criteria:

1. Be commensurate with the following measures:

a. Size and complexity of the licensee.

b. Nature and scope of the licensee's activities, including the licensee's use of third-party service providers.

c. Sensitivity of nonpublic personal information that is used by the licensee or that is in the licensee's possession, custody, or control.

2. Be designed to do all of the following:

a. Protect the security and confidentiality of nonpublic personal information and the security of the licensee's information system.

b. Protect against threats or hazards to the security or integrity of nonpublic personal information and the licensee's information system.

c. Protect against unauthorized access to or the use of nonpublic personal information and minimize the likelihood of harm to any customer.

3. Define and periodically reevaluate the retention schedule and the mechanism for the destruction of nonpublic personal information if retention is no longer necessary for the licensee's business operations or is no longer required by applicable law.

4. Regularly test and monitor systems and procedures for the detection of actual and attempted attacks on, or intrusions into, the licensee's information system.

5. Be monitored, evaluated, and adjusted, as necessary, to meet all of the following requirements:

a. Determine whether the licensee's information security program is consistent with relevant changes in technology.

b. Confirm the licensee's information security program accounts for the sensitivity of nonpublic personal information.

c. Identify changes that may be necessary to the licensee's information system.

d. Mitigate any internal or external threats to nonpublic personal information.

e. Amend the licensee's information security program for any of the licensee's changing business arrangements, including, but not limited to, mergers and acquisitions, alliances and joint ventures, and outsourcing arrangements.

(c)1. As part of a licensee's information security program, the licensee shall establish a written incident response plan designed to promptly respond to, and recover from, a cybersecurity event that compromises:

a. The confidentiality, integrity, or availability of nonpublic personal information in the licensee's possession;

b. The licensee's information system; or

c. The continuing functionality of any aspect of the licensee's operations.

2. The written incident response plan must address all of the following:

a. The licensee's internal process for responding to a cybersecurity event.

b. The goals of the licensee's incident response plan.

c. The assignment of clear roles, responsibilities, and levels of decisionmaking authority for the licensee's personnel that participate in the incident response plan.

d. External communications, internal communications, and information sharing related to a cybersecurity event.

e. The identification of remediation requirements for weaknesses identified in information systems and associated controls.

f. The documentation and reporting regarding cybersecurity events and related incident response activities.

g. The evaluation and revision of the incident response plan, as appropriate, following a cybersecurity event.

h. The process by which notice must be given as required under subsection (4) and s. 501.171(3) and (4).

(d)1. This section does not apply to a licensee that has fewer than:

a. Twenty individuals on its workforce, including employees and independent contractors; or

b. Five hundred customers during a calendar year.

2. A licensee that no longer qualifies for exemption under subparagraph 1. has 180 calendar days to comply with this section after the date of the disqualification.

(e) Each licensee shall maintain a copy of the information security program for a minimum of 5 years and shall make it available to the office upon request or as part of an examination.

(3) NOTICE TO OFFICE OF SECURITY BREACH.—

(a) Each licensee shall provide notice to the office of any breach of security affecting 500 or more individuals in this state at a time and in the manner prescribed by commission rule.

(4) CONSTRUCTION.—This section may not be construed to relieve a covered entity from complying with s. 501.171. To the extent a licensee is a covered entity, as defined in s. 501.171(1), the licensee remains subject to s. 501.171.

(5) RULES.—The commission must adopt rules to administer this section, including rules that allow a licensee that is in compliance with the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 C.F.R. part 314, to be deemed in compliance with subsection (2).

Section 2. Paragraph (z) is added to subsection (1) of section 494.00255, Florida Statutes, to read:

494.00255 Administrative penalties and fines; license violations.—

(1) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (2) may be taken against a person licensed or required to be licensed under part II or part III of this chapter:

(z) Failure to comply with the notification requirements in s. 501.171(3) and (4).

Section 3. Subsections (28) through (36) of section 517.021, Florida Statutes, are renumbered as subsections (29) through (37), respectively, subsection (20) is amended, and a new subsection (28) is added to that section, to read:

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

(20)(a) "Investment adviser" means a person, other than an associated person of an investment adviser or a federal covered adviser, that receives compensation, directly or indirectly, and engages for all or part of the person's time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities.

(b) The term does not include any of the following:

1. A dealer or an associated person of a dealer whose performance of services in paragraph (a) is solely incidental to the conduct of the dealer's or associated person's business as a dealer and who does not receive special compensation for those services.

2. A licensed practicing attorney or certified public accountant whose performance of such services is solely incidental to the practice of the attorney's or accountant's profession.

3. A bank authorized to do business in this state.

4. A bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state.

5. A trust company having trust powers, as defined in s. 658.12, which it is authorized to exercise in this state, which trust company renders or performs investment advisory services in a fiduciary capacity incidental to the exercise of its trust powers.

6. A person that renders investment advice exclusively to insurance or investment companies.

7. A person:

a. Without a place of business in this state if the person has had ~~that~~, during the preceding 12 months, ~~has~~ fewer than six clients who are residents of this state.

b. With a place of business in this state if the person has had, during the preceding 12 months, fewer than six clients who are residents of this state and no clients who are not residents of this state.

As used in this subparagraph, the term "client" has the same meaning as provided in Securities and Exchange Commission Rule 222-2 ~~275.222-2~~, 17 C.F.R. s. 275.222-2, as amended.

8. A federal covered adviser.

9. The United States, a state, or any political subdivision of a state, or any agency, authority, or instrumentality of any such entity; a business entity that is wholly owned directly or indirectly by such a governmental entity; or any officer, agent, or employee of any such

285 governmental or business entity who is acting within the scope
286 of his or her official duties.
287 10. A family office as defined in Securities and Exchange
288 Commission Rule 202(a)(11)(G)-1(b) under the Investment Advisers
289 Act of 1940, 17 C.F.R. s. 275.202(a)(11)(G)-1(b), as amended. In
290 determining whether a person meets the definition of a family
291 office under this subparagraph, the terms "affiliated family
292 office," "control," "executive officer," "family client,"
293 "family entity," "family member," "former family member," "key
294 employee," and "spousal equivalent" have the same meaning as in
295 Securities and Exchange Commission Rule 202(a)(11)(G)-1(d), 17
296 C.F.R. s. 275.202(a)(11)(G)-1(d).
297 (28) "Place of business" of an investment adviser means an
298 office at which the investment adviser regularly provides
299 investment advisory services to, solicits, meets with, or
300 otherwise communicates with clients; and any other location that
301 is held out to the general public as a location at which the
302 investment adviser provides investment advisory services to,
303 solicits, meets with, or otherwise communicates with clients.
304 **Section 4. Paragraph (i) of subsection (9) of section**
305 **517.061, Florida Statutes, is amended to read:**
306 517.061 Exempt transactions.—
307 Except as otherwise provided in subsection (11), the
308 exemptions provided herein from the registration requirements of
309 s. 517.07 are self-executing and do not require any filing with

the office before being claimed. Any person who claims entitlement to an exemption under this section bears the burden of proving such entitlement in any proceeding brought under this chapter. The registration provisions of s. 517.07 do not apply to any of the following transactions; however, such transactions are subject to s. 517.301:

(9) The offer or sale of securities to:

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

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

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

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

In determining whether a person meets the definition of a family office under this paragraph, the terms "affiliated family office," "control," "executive officer," "family client," "family entity," "family member," "former family member," "key employee," and "spousal equivalent" have the same meaning as in

Securities and Exchange Commission Rule 202(a)(11)(G)-1(d), 17 C.F.R. s. 275.202(a)(11)(G)-1(d).

Section 5. Subsections (1) and (2) of section 560.114, Florida Statutes, are amended to read:

560.114 Disciplinary actions; penalties.—

(1) The following actions by a money services business, an authorized vendor, or a ~~affiliated~~ party that was affiliated at the time of commission of the actions constitute grounds for the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license; or taking any other action within the authority of the office pursuant to this chapter:

(a) Failure to comply with any provision of this chapter or related rule or order, or any written agreement entered into with the office.

(b) Fraud, misrepresentation, deceit, or gross negligence in any transaction by a money services business, regardless of reliance thereon by, or damage to, a customer.

(c) Fraudulent misrepresentation, circumvention, or concealment of any matter that must be stated or furnished to a customer pursuant to this chapter, regardless of reliance thereon by, or damage to, such customer.

(d) False, deceptive, or misleading advertising.

(e) Failure to maintain, preserve, keep available for examination, and produce all books, accounts, files, or other

documents required by this chapter or related rules or orders, by 31 C.F.R. ss. 1010.306, 1010.311, 1010.312, 1010.340, 1010.410, 1010.415, 1022.210, 1022.320, 1022.380, and 1022.410, or by an agreement entered into with the office.

(f) Refusing to allow the examination or inspection of books, accounts, files, or other documents by the office pursuant to this chapter, or to comply with a subpoena issued by the office.

(g) Failure to pay a judgment recovered in any court by a claimant in an action arising out of a money transmission transaction within 30 days after the judgment becomes final.

(h) Engaging in an act prohibited under s. 560.111 or s. 560.1115.

(i) Insolvency.

(j) Failure by a money services business to remove an affiliated party after the office has issued and served upon the money services business a final order setting forth a finding that the affiliated party has violated a provision of this chapter.

(k) Making a material misstatement, misrepresentation, or omission in an application for licensure, any amendment to such application, or application for the appointment of an authorized vendor.

(l) Committing any act that results in a license or its equivalent, to practice any profession or occupation being

denied, suspended, revoked, or otherwise acted against by a licensing authority in any jurisdiction.

(m) Being the subject of final agency action or its equivalent, issued by an appropriate regulator, for engaging in unlicensed activity as a money services business or deferred presentment provider in any jurisdiction.

(n) Committing any act resulting in a license or its equivalent to practice any profession or occupation being denied, suspended, revoked, or otherwise acted against by a licensing authority in any jurisdiction for a violation of 18 U.S.C. s. 1956, 18 U.S.C. s. 1957, 18 U.S.C. s. 1960, 31 U.S.C. s. 5324, or any other law or rule of another state or of the United States relating to a money services business, deferred presentment provider, or usury that may cause the denial, suspension, or revocation of a money services business or deferred presentment provider license or its equivalent in such jurisdiction.

(o) Having been convicted of, or entered a plea of guilty or nolo contendere to, any felony or crime punishable by imprisonment of 1 year or more under the law of any state or the United States which involves fraud, moral turpitude, or dishonest dealing, regardless of adjudication.

(p) Having been convicted of, or entered a plea of guilty or nolo contendere to, a crime under 18 U.S.C. s. 1956 or 31 U.S.C. <u>s. 5318, s. 5322, or</u> s. 5324, regardless of adjudication.

(q) Having been convicted of, or entered a plea of guilty or nolo contendere to, misappropriation, conversion, or unlawful withholding of moneys belonging to others, regardless of adjudication.

(r) Having been convicted of, or entered a plea of guilty or nolo contendere to, a violation of 31 C.F.R. chapter X, part 1022, regardless of adjudication.

(s) ~~(r)~~ Failure to inform the office in writing within 30 days after having pled guilty or nolo contendere to, or being convicted of, any felony or crime punishable by imprisonment of 1 year or more under the law of any state or the United States, or any crime involving fraud, moral turpitude, or dishonest dealing.

(t) ~~(s)~~ Aiding, assisting, procuring, advising, or abetting any person in violating a provision of this chapter or any order or rule of the office or commission.

(u) ~~(t)~~ Failure to pay any fee, charge, or cost imposed or assessed under this chapter.

(v) ~~(u)~~ Failing to pay a fine assessed by the office within 30 days after the due date as stated in a final order.

(w) ~~(v)~~ Failure to pay any judgment entered by any court within 30 days after the judgment becomes final.

(x) ~~(w)~~ Engaging or advertising engagement in the business of a money services business or deferred presentment provider without a license, unless exempted from licensure.

(y) ~~(x)~~ Payment to the office for a license or other fee, charge, cost, or fine with a check or electronic transmission of funds that is dishonored by the applicant's or licensee's financial institution.

(z) ~~(y)~~ Violations of 31 C.F.R. ss. 1010.306, 1010.311, 1010.312, 1010.340, 1010.410, 1010.415, 1022.210, 1022.320, 1022.380, and 1022.410, and United States Treasury Interpretive Release 2004-1.

(aa) ~~(z)~~ Any practice or conduct that creates the likelihood of a material loss, insolvency, or dissipation of assets of a money services business or otherwise materially prejudices the interests of its customers.

(bb) ~~(aa)~~ Failure of a check casher to maintain a federally insured depository account as required by s. 560.309.

(cc) ~~(bb)~~ Failure of a check casher to deposit into its own federally insured depository account any payment instrument cashed as required by s. 560.309.

(dd) ~~(cc)~~ Violating any provision of the Military Lending Act, 10 U.S.C. s. 987, or the regulations adopted under that act in 32 C.F.R. part 232, in connection with a deferred presentment transaction conducted under part IV of this chapter.

(ee) Failure to comply with the notification requirements in s. 501.171(3) and (4).

(2) ~~Pursuant to s. 120.60(6),~~ The office shall issue an emergency order suspending ~~may summarily suspend~~ the license of

a money services business if the office finds that a licensee poses an immediate, serious danger to the public health, safety, and welfare as deemed by the Legislature. ~~A proceeding in which the office seeks the issuance of a final order for the summary suspension of a licensee shall be conducted by the commissioner of the office, or his or her designee, who shall issue such order.~~

(a) An emergency order under this section may be issued without prior notice and an opportunity to be heard. An emergency order must:

1. state the grounds on which the order is based;

2. advise the licensee against whom the order is directed that the order takes effect immediately, and, to the extent applicable, require the licensee to immediately cease and desist from the conduct or violation that is the subject of the order or to take the affirmative action stated in the order as necessary to correct a condition resulting from the conduct or violation or as otherwise appropriate;

3. be delivered by personal delivery or sent by certified mail, return receipt requested, to the licensee against whom the order is directed at the licensee's last known address; and

4. include a notice that the licensee subject to an emergency suspension order may seek judicial review pursuant to s. 120.68.

(b) An emergency order is effective as soon as the licensee against whom the order is directed has actual or constructive knowledge of the issuance of the order.

(c) The office shall institute proceedings under ss. 120.569 and 120.57 within 20 days after issuance of an emergency suspension order.

(d) A licensee subject to an emergency suspension order may seek judicial review pursuant to s. 120.68.

(e) ~~(2)~~ The following acts are deemed by the Legislature to constitute an immediate and serious danger to the public health, safety, and welfare, and the office shall ~~may~~ immediately suspend the license of a money services business without making any further findings of immediate danger, necessity, and procedural fairness if:

1. ~~(a)~~ The money services business fails to provide to the office, upon written request, any of the records required by s. 560.123, s. 560.1235, s. 560.211, or s. 560.310 or any rule adopted under those sections. The suspension may be rescinded if the licensee submits the requested records to the office.

2. ~~(b)~~ The money services business fails to maintain a federally insured depository account as required by s. 560.208(4) or s. 560.309.

3. ~~(c)~~ A natural person required to be listed on the license application for a money services business pursuant to s. 560.141(1)(a)3. is criminally charged with, or arrested for, a

crime described in paragraph (1)(o), paragraph (1)(p), or paragraph(1)(q).

Section 6. Section 520.135, Florida Statutes, is created to read:

520.135 Surrendered or repossessed vehicles.—

The rights and obligations of parties with respect to a surrendered or repossessed motor vehicle are exclusively governed by part VI of chapter 679.

Section 7. Section 560.1311, Florida Statutes, is created to read:

560.1311 Information security programs.—

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

(a) "Customer" means a person who seeks to obtain or who obtains or has obtained a financial product or service from a licensee.

(b) "Customer information" means any record containing nonpublic personal information about a customer of a financial transaction, whether on paper, electronic, or in other forms, which is handled or maintained by or on behalf of the licensee or its affiliates.

(c) "Cybersecurity event" means an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form.

(d) "Financial product or service" means any product or service offered by a licensee under this chapter.

(e) "Information security program" means the administrative, technical, or physical safeguards used to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information.

(f) "Information system" means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic information, as well as any specialized system such as an industrial process control system, telephone switching and private branch exchange system, or environmental control system, which contain customer information or which are connected to a system that contains customer information.

(g)1. "Nonpublic personal information" means:

a. Personally identifiable financial information; and

b. Any list, description, or other grouping of customers that is derived using any personally identifiable financial information that is not publicly available, such as account numbers, including any list of individuals' names and street addresses that is derived, in whole or in part, using personally identifiable financial information that is not publicly available.

2. The term does not include:

a. Publicly available information, except as included on a list, description, or other grouping of customers described in sub-subparagraph 1.b.;

b. Any list, description, or other grouping of consumers, or any publicly available information pertaining to such list, description, or other grouping of consumers, which is derived without using any personally identifiable financial information that is not publicly available; or

c. Any list of individuals' names and addresses that contains only publicly available information, is not derived, in whole or in part, using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a customer of a licensee.

3. As used in this paragraph, the term:

a.(I) "Personally identifiable financial information" means any information that:

(A) A customer provides to a licensee to obtain a financial product or service, such as information that a customer provides to a licensee on an application to obtain a loan or other financial product or service;

(B) A licensee receives about a consumer that is obtained during or as a result of any transaction involving a financial product or service between the licensee and the customer, such

as information collected through an information-collecting device from a web server; or

(C) A licensee otherwise obtains about a customer in connection with providing a financial product or service to the customer, such as the fact that an individual is or has been one of the licensee's customers or has obtained a financial product or service from the licensee.

(II) The term "personally identifiable financial information" does not include:

(A) A list of names and addresses of customers of an entity that is not a financial institution; or

(B) Information that does not identify a customer, such as blind data or aggregate information that does not contain personal identifiers such as account numbers, names, or addresses.

b.(I) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(A) Federal, state, or local government records, such as government real estate records or security interest filings;

(B) Widely distributed media, such as information from a telephone records repository or directory, a television or radio program, a newspaper, a social media platform, or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service

provider or a site operator requires a fee or a password, so long as access is available to the general public; or

(C) Disclosures to the general public which are required to be made by federal, state, or local law.

(II) As used in this sub-subparagraph, the term "reasonable basis to believe is lawfully made available to the general public" relating to any information means that the person has taken steps to determine:

(A) That the information is of the type that is available to the general public, such as information included on the public record in the jurisdiction where the mortgage would be recorded; and

(B) Whether an individual can direct that the information not be made available to the general public and, if so, the customer to whom the information relates has not done so, such as when a telephone number is listed in a telephone directory and the customer has informed the licensee that the telephone number is not unlisted.

(h) "Third-party service provider" means a person, other than a licensee, which contracts with a licensee to maintain, process, or store nonpublic personal information, or is otherwise permitted access to nonpublic personal information through its provision of services to a licensee.

(2) INFORMATION SECURITY PROGRAM.—

(a) Each licensee shall develop, implement, and maintain a comprehensive written information security program that contains administrative, technical, and physical safeguards for the protection of the licensee's information system and nonpublic personal information.

(b) Each licensee shall ensure that the information security program meets all of the following criteria:

1. Be commensurate with the following measures:

a. Size and complexity of the licensee.

b. Nature and scope of the licensee's activities, including the licensee's use of third-party service providers.

c. Sensitivity of nonpublic personal information that is used by the licensee or that is in the licensee's possession, custody, or control.

2. Be designed to do all of the following:

a. Protect the security and confidentiality of nonpublic personal information and the security of the licensee's information system.

b. Protect against threats or hazards to the security or integrity of nonpublic personal information and the licensee's information system.

c. Protect against unauthorized access to or the use of nonpublic personal information and minimize the likelihood of harm to any customer.

3. Define and periodically reevaluate the retention schedule and the mechanism for the destruction of nonpublic personal information if retention is no longer necessary for the licensee's business operations or is no longer required by applicable law.

4. Regularly test and monitor systems and procedures for the detection of actual and attempted attacks on, or intrusions into, the licensee's information system.

5. Be monitored, evaluated, and adjusted, as necessary, to meet all of the following requirements:

a. Determine whether the licensee's information security program is consistent with relevant changes in technology.

b. Confirm the licensee's information security program accounts for the sensitivity of nonpublic personal information.

c. Identify changes that may be necessary to the licensee's information system.

d. Mitigate any internal or external threats to nonpublic personal information.

e. Amend the licensee's information security program for any of the licensee's changing business arrangements, including, but not limited to, mergers and acquisitions, alliances and joint ventures, and outsourcing arrangements.

(c)1. As part of a licensee's information security program, the licensee shall establish a written incident

response plan designed to promptly respond to, and recover from, a cybersecurity event that compromises:

a. The confidentiality, integrity, or availability of nonpublic personal information in the licensee's possession;

b. The licensee's information system; or

c. The continuing functionality of any aspect of the licensee's operations.

2. The written incident response plan must address all of the following:

a. The licensee's internal process for responding to a cybersecurity event.

b. The goals of the licensee's incident response plan.

c. The assignment of clear roles, responsibilities, and levels of decisionmaking authority for the licensee's personnel that participate in the incident response plan.

d. External communications, internal communications, and information sharing related to a cybersecurity event.

e. The identification of remediation requirements for weaknesses identified in information systems and associated controls.

f. The documentation and reporting regarding cybersecurity events and related incident response activities.

g. The evaluation and revision of the incident response plan, as appropriate, following a cybersecurity event.

h. The process by which notice must be given as required under subsection (4) and s. 501.171(3) and (4).

(d)1. This section does not apply to a licensee that has fewer than:

a. Twenty individuals on its workforce, including employees and independent contractors; or

b. Five hundred customers during a calendar year.

2. A licensee that no longer qualifies for exemption under subparagraph 1. has 180 calendar days to comply with this section after the date of the disqualification.

(e) Each licensee shall maintain a copy of the information security program for a minimum of 5 years and shall make it available to the office upon request or as part of an examination.

(3) NOTICE TO OFFICE OF SECURITY BREACH.—

(a) Each licensee shall provide notice to the office of any breach of security affecting 500 or more individuals in this state at a time and in the manner prescribed by commission rule.

(4) CONSTRUCTION.—This section may not be construed to relieve a covered entity from complying with s. 501.171. To the extent a licensee is a covered entity, as defined in s. 501.171(1), the licensee remains subject to s. 501.171.

(5) RULES.—The commission must adopt rules to administer this section, including rules that allow a licensee that is in full compliance with the Federal Trade Commission's Standards

for Safeguarding Customer Information, 16 C.F.R. part 314, to be deemed in compliance with subsection (2).

Section 8. Subsection (10) of section 560.309, Florida Statutes, is amended to read:

(10) If a check is returned to a licensee from a payor financial institution due to lack of funds, a closed account, or a stop-payment order, the licensee may seek collection pursuant to s. 68.065. In seeking collection, the licensee must comply with the prohibitions against harassment or abuse, false or misleading representations, and unfair practices in the Consumer Collection Practices Act under part VI of chapter 559, including s. 559.77. A licensee must also comply with the Fair Debt Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, and 1692f if the licensee is utilizing a third-party debt collector or any name other than its own to collect such debts. A violation of this subsection is a deceptive and unfair trade practice and constitutes a violation of the Deceptive and Unfair Trade Practices Act under part II of chapter 501. ~~In addition, a licensee must comply with the applicable provisions of the Consumer Collection Practices Act under part VI of chapter 559, including s. 559.77.~~

Section 9. Subsection (3) of section 560.405, Florida Statutes, is amended to read:

(3) Notwithstanding subsection (1), in lieu of presentment, a deferred presentment provider may allow the check to be

753 redeemed at any time upon payment of the outstanding transaction
754 balance and earned fees. Redemption in cash or through a debit
755 card transaction shall be treated the same. However, payment may
756 not be made in the form of a personal check or through a credit
757 card transaction. Upon redemption, the deferred presentment
758 provider must return the drawer's check and provide a signed,
759 dated receipt showing that the drawer's check has been redeemed.
760 **Section 10. Subsection (2) of section 560.406, Florida**
761 **Statutes, is amended to read:**
762 (2) If a check is returned to a deferred presentment
763 provider from a payor financial institution due to insufficient
764 funds, a closed account, or a stop-payment order, the deferred
765 presentment provider may pursue all legally available civil
766 remedies to collect the check, including, but not limited to,
767 the imposition of all charges imposed on the deferred
768 presentment provider by the financial institution. In its
769 collection practices, a deferred presentment provider must
770 comply with the prohibitions against harassment or abuse, false
771 or misleading representations, and unfair practices that are
772 contained in the Consumer Collection Practices Act under part VI
773 of chapter 559, including s. 559.77. A deferred presentment
774 provider must also comply with the Fair Debt Collections
775 Practices Act, 15 U.S.C. ss. 1692d, 1692e, and 1692f if the
776 deferred present provider is utilizing a third-party debt
777 collector or any name other than its own to collect such debts.

A violation of this act is a deceptive and unfair trade practice and constitutes a violation of the Deceptive and Unfair Trade Practices Act under part II of chapter 501. ~~In addition, a deferred presentment provider must comply with the applicable provisions of the Consumer Collection Practices Act under part VI of chapter 559, including s. 559.77.~~

Section 11. Section 655.0171, Florida Statutes, is created to read:

655.0171 Requirements for customer data security and for notices of security breaches.—

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

(a) "Breach of security" or "breach" means unauthorized access of data in electronic form containing personal information. Good faith access of personal information by an employee or agent of a financial institution does not constitute a breach of security, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use. As used in this paragraph, the term "data in electronic form" means any data stored electronically or digitally on any computer system or other database and includes recordable tapes and other mass storage devices.

(b) "Department" means the Department of Legal Affairs.

(c)1. "Personal information" means:

a. An individual's first name, or first initial, and last name, in combination with any of the following data elements for that individual:

(I) A social security number;

(II) A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;

(III) A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to the individual's financial account;

(IV) The individual's biometric data as defined in s. 501.702; or

(V) Any information regarding the individual's geolocation; or

b. A username or e-mail address, in combination with a password or security question and answer that would permit access to an online account.

2. The term does not include information about an individual which has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that

personally identify an individual or that otherwise renders the information unusable.

(2) REQUIREMENTS FOR DATA SECURITY.—Each financial institution shall take reasonable measures to protect and secure data that are in electronic form and that contain personal information.

(3) NOTICE TO OFFICE AND DEPARTMENT OF SECURITY BREACH.—

(a)1. Each financial institution shall provide notice to the office of any breach of security affecting 500 or more individuals in this state. Such notice must be provided to the office as expeditiously as practicable, but no later than 30 days after the determination of the breach or the determination of a reason to believe that a breach has occurred.

2. The written notice to the office must include the items required under s. 501.171(3)(b).

3. A financial institution must provide the following information to the office upon its request:

a. A police report, incident report, or computer forensics report.

b. A copy of the policies in place regarding breaches.

4. Steps that have been taken to rectify the breach.

5. A financial institution may provide the office with supplemental information regarding a breach at any time.

(b) Each financial institution shall provide notice to the department of any breach of security affecting 500 or more

individuals in this state. Such notice must be provided to the department in accordance with s. 501.171.

(4) NOTICE TO INDIVIDUALS OF SECURITY BREACH.—Each financial institution shall give notice to each individual in this state whose personal information was, or the financial institution reasonably believes to have been, accessed as a result of the breach in accordance with s. 501.171(4). The notice must be provided no later than 30 days after the determination of the breach or the determination of a reason to believe that a breach has occurred. A financial institution may receive 15 additional days to provide notice to individuals of a security breach as required in this subsection if good cause for delay is provided in writing to the office within 30 days after determination of the breach or determination of the reason to believe that a breach has occurred.

(5) NOTICE TO CREDIT REPORTING AGENCIES.—If a financial institution discovers circumstances requiring notice pursuant to this section of more than 1,000 individuals at a single time, the financial institution shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p), of the timing, distribution, and content of the notices.

Section 12. Paragraph (d) of subsection (1) of section 655.045, Florida Statutes, is amended to read:

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

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

(d) As used in this section, the term "costs" means the salary and travel expenses directly attributable to the field staff examining the state financial institution, subsidiary, or service corporation, and the travel expenses of any supervisory staff required as a result of examination findings. The mailing of any costs incurred under this subsection must be postmarked within 45 ~~30~~ days after the date of receipt of a notice stating that such costs are due. The office may levy a late payment of up to $100 per day or part thereof that a payment is overdue, unless excused for good cause. However, for intentional late

payment of costs, the office may levy an administrative fine of up to $1,000 per day for each day the payment is overdue.

Section 13. Subsection (2) of section 657.005, Florida Statutes, is amended to read:

657.005 Application for authority to organize a credit union; investigation.—

(2) Any five or more individuals, a majority of whom are residents of this state and all of whom ~~who~~ represent a limited field of membership, may apply to the office for permission to organize a credit union. The fact that individuals within the proposed limited field of membership have credit union services available to them through another limited field of membership shall not preclude the granting of a certificate of authorization to engage in the business of a credit union.

Section 14. Subsection (1) of section 657.024, Florida Statutes, is amended to read:

657.024 Membership meetings.—

(1) The members shall receive timely notice of the annual meeting and any special meetings of the members, which shall be held at the time, place, and in the manner provided in the bylaws. The annual meeting and any special meetings of the members may be held virtually without an in-person quorum, and virtual attendance may satisfy quorum requirements, subject to the bylaws.

Section 15. Subsections (6) and (7) of section 657.042, Florida Statutes, are renumbered as subsections (5) and (6), and paragraph (b) of subsection (3) and present subsection (5) of that section are amended to read:

657.042 Investment powers and limitations.—A credit union may invest its funds subject to the following definitions, restrictions, and limitations:

(3) INVESTMENT SUBJECT TO LIMITATION OF TWO PERCENT OF CAPITAL OF THE CREDIT UNION.—

(b) Commercial paper and bonds of any corporation within the United States which have a fixed maturity, as provided in subsection (6) ~~(7)~~, except that the total investment in all such paper and bonds may not exceed 10 percent of the capital of the credit union.

~~(5) INVESTMENTS IN REAL ESTATE AND EQUIPMENT FOR THE CREDIT UNION.—~~

~~(a) Up to 5 percent of the capital of the credit union may be invested in real estate and improvements thereon, furniture, fixtures, and equipment utilized or to be utilized by the credit union for the transaction of business.~~

~~(b) The limitations provided by this subsection may be exceeded with the prior written approval of the office. The office shall grant such approval if it is satisfied that:~~

~~1. The proposed investment is necessary.~~

~~2. The amount thereof is commensurate with the size and needs of the credit union.~~

~~3. The investment will be beneficial to the members.~~

~~4. A reasonable plan is developed to reduce the investment to statutory limits.~~

Section 16. Paragraphs (b) and (c) of subsection (4) of section 658.21, Florida Statutes, are amended to read:

658.21 Approval of application; findings required.—The office shall approve the application if it finds that:

(4)

(b) At least two of the proposed directors who are not also proposed officers must have had within the 10 years before the date of the application at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution as specified in the application ~~within the 5 years before the date of the application~~. ~~However, if the applicant demonstrates that at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution more than 5 years before the date of the application, the office may modify the requirement and allow the applicant to have only one director who has direct financial institution experience within the last 5 years.~~

(c) The proposed president or chief executive officer must have had at least 1 year of direct experience as an executive

officer, director, or regulator of a financial institution within the last 10 ~~5~~ years. In making a decision, the office must also consider ~~may waive this requirement after considering~~:

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

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

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

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

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

6. Any other relevant data or information.

Section 17. Subsection (2) of section 658.33, Florida Statutes, is amended to read:

658.33 Directors, number, qualifications; officers.—

(2) Not less than a majority of the directors must, during their whole term of service, be citizens of the United States, and at least a majority of the directors must have resided in this state for at least 1 year preceding their election and must be residents therein during their continuance in office. In the case of a bank or trust company with total assets of less than $150 million, at least one, and in the case of a bank or trust company with total assets of $150 million or more, two of the directors who are not also officers of the bank or trust company

must have had at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the last 10 ~~5~~ years.

Section 18. Subsection (4) of section 662.141, Florida Statutes, is amended to read:

662.141 Examination, investigations, and fees.—The office may conduct an examination or investigation of a licensed family trust company at any time it deems necessary to determine whether the licensed family trust company or licensed family trust company-affiliated party thereof has violated or is about to violate any provision of this chapter, any applicable provision of the financial institutions codes, or any rule adopted by the commission pursuant to this chapter or the codes. The office may conduct an examination or investigation of a family trust company or foreign licensed family trust company at any time it deems necessary to determine whether the family trust company or foreign licensed family trust company has engaged in any act prohibited under s. 662.131 or s. 662.134 and, if a family trust company or a foreign licensed family trust company has engaged in such act, to determine whether any applicable provision of the financial institutions codes has been violated.

(4) For each examination of the books and records of a family trust company, licensed family trust company, or foreign licensed family trust company as authorized under this chapter,

the trust company shall pay a fee for the costs of the examination by the office. As used in this section, the term "costs" means the salary and travel expenses of field staff which are directly attributable to the examination of the trust company and the travel expenses of any supervisory and support staff required as a result of examination findings. The mailing of payment for costs incurred must be postmarked within 45 ~~30~~ days after the receipt of a notice stating that the costs are due. The office may levy a late payment of up to $100 per day or part thereof that a payment is overdue unless waived for good cause. However, if the late payment of costs is intentional, the office may levy an administrative fine of up to $1,000 per day for each day the payment is overdue.

Section 19. Subsection (21) of section 517.12, Florida Statutes, is amended to read:

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

(21) The registration requirements of this section do not apply to any general lines insurance agent or life insurance agent licensed under chapter 626, with regard to the sale of a security as defined in s. 517.021(34)(g) ~~s. 517.021(33)(g)~~, if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this

subsection constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

Section 20. This act shall take effect July 1, 2026.

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

Remove everything before the enacting clause and insert: An act relating to the Office of Financial Regulation; creating s. 494.00123, F.S.; providing definitions; requiring loan originators, mortgage brokers, and mortgage lenders to develop, implement, and maintain comprehensive written information security programs for the protection of information systems and nonpublic personal information; providing requirements for such programs; requiring loan originators, mortgage brokers, and mortgage lenders to establish written incident response plans for specified purposes; providing requirements for such plans; providing applicability; providing compliance requirements under specified circumstances; requiring loan originators, mortgage brokers, and mortgage lenders to maintain copies of information security programs for a specified timeframe and to make them available to the Office of Financial Regulation under

certain circumstances; providing requirements for notices of security breaches; providing construction; providing rulemaking authority; amending s. 494.00255, F.S.; providing additional acts that constitute a ground for specified disciplinary actions against loan originators and mortgage brokers; amending s. 517.021, F.S.; revising the definition of the term "investment adviser" and defining terms; amending s. 517.061, F.S.; defining terms; amending s. 560.114, F.S.; specifying the entities that are subject to certain disciplinary actions and penalties; revising the list of actions by money services businesses which constitute grounds for certain disciplinary actions and penalties; requiring, rather than authorizing, the office to suspend licenses of money services businesses under certain circumstances; requiring an emergency order to state the grounds on which the order is based, provide notice that the order takes effect immediately, require the person to immediately cease and desist from the conduct or violation that is the subject of the order, be delivered by personal delivery or certified mail, provide the licensee with notice that they may seek judicial review; providing that an emergency order is effective when the licensee against whom the order is directed has actual or

constructive knowledge; requiring the office to institute proceedings within 20 days after issuance of an emergency suspension order; providing that a licensee subject to an emergency suspension may seek judicial review; creating s. 520.135, F.S.; specifying that the rights and obligation of parties with respect to a surrendered or repossessed motor vehicle are exclusively governed by certain provisions; creating s. 560.1311, F.S.; providing definitions; requiring money services businesses to develop, implement, and maintain comprehensive written information security programs for the protection of information systems and nonpublic personal information; providing requirements for such programs; requiring money services businesses to establish written incident response plans for specified purposes; providing requirements for such plans; providing applicability; providing compliance requirements under specified circumstances; requiring money services businesses to maintain copies of information security programs for a specified timeframe and to make them available to the office under certain circumstances; providing requirements for notices of security breaches; providing construction; providing rulemaking authority; amending s. 560.309, F.S.; providing that licensees must comply

with the Fair Debt Collections Practices Act only if the licensee meets certain criteria; amending s. 560.405, F.S.; providing that a debit card transaction shall be treated the same as cash transactions and prohibiting redemption through a credit card transaction; amending s. 560.406, F.S.; providing that licensees must comply with the Fair Debt Collections Practices Act only if the licensee meets certain criteria; creating s. 655.0171, F.S.; providing definitions; requiring financial institutions to take measures to protect and secure certain data that contain personal information; providing requirements for notices of security breaches to the office, the Department of Legal Affairs, certain individuals, and certain credit reporting agencies; amending s. 655.045, F.S.; revising the timeline for the mailing of payment for salary and travel expenses of certain field staff; amending s. 657.005, F.S.; revising requirements for permission to organize credit unions; amending s. 657.024, F.S.; authorizing meetings of credit union members to be held virtually without an in-person quorum and authorizing virtual attendance to satisfy quorum requirements under certain circumstances; amending s. 657.042, F.S.; removing provisions that impose limitations on investments in

real estate and equipment for credit unions; amending s. 658.21, F.S.; revising requirements and factors for approving applications for organizing banks and trust companies; amending s. 658.33, F.S.; revising requirements for directors of certain banks and trust companies; amending s. 662.141, F.S.; revising the timeline for the mailing of payment for the salary and travel expenses of certain field staff; amending s. 517.12, F.S.; conforming a cross-reference; providing an effective date.

HB 427

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 427	**COMPANION BILL:** SB 266 (Burton)
TITLE: Public Adjuster Contracts	**LINKED BILLS:** None
SPONSOR(S): Melo	**RELATED BILLS:** None

Committee References

Insurance & Banking ➤ Civil Justice & Claims ➤ Commerce

SUMMARY

Effect of the Bill:
The bill allows vulnerable adults and people who lack capacity to consent (as well as their legal representatives) to cancel public adjuster contracts without penalty at any time. Additionally, the bill gives the Department of Financial Services the authority to take disciplinary action against public adjusters who solicit or otherwise take advantage of vulnerable adults.

Fiscal or Economic Impact:
None

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill allows insureds[1] who are vulnerable adults or who lack capacity to consent, as well as their legal representatives, to cancel a contract for public adjuster services at any time without any penalties. (Sections 1 and 3).

The bill also grants the Department of Financial Services (DFS) the authority to deny, suspend, or revoke the license of a public adjuster or public adjuster apprentice, as well as impose fines of up to $5,000 per act, for soliciting vulnerable adults. This change clarifies current law, which prohibits public adjusters soliciting or otherwise taking advantage of a person who is "vulnerable."[2] (Section 2).

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

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Public Adjusters

Under Florida law, a public adjuster is a person who is paid (whether by money, commission, or any other thing of value) to help an insured with their insurance claim. This includes preparing, completing or filing a claim for an insured. It also includes assisting an insured in negotiating or settling a claim for loss or damage covered by an insurance policy. In addition, someone is considered a public adjuster if they advertise their availability to perform these services.[3] Florida law expressly excludes from the definition of "public adjuster" persons who only

[1] For purposes of s. 626.854, F.S., the term "insured" includes "only the policyholder and any beneficiaries named or similarly identified in the policy."
[2] S. 626.8698, F.S.
[3] S. 626.854, F.S.

photograph or inventory damaged property as long as they do not engage in claim negotiation or settlement activities.[4]

The definition does not apply to certain health care providers, licensed health insurance agents assisting with health claims, or persons who file health claims without compensation. The public adjuster may not provide legal advice or assist with negotiating or settling claims involving bodily injury, death, or noneconomic damages.[5]

A license issued by the Department of Financial Services is required to provide public adjuster services.[6]

Canceling a Public Adjuster Contract

An insured or claimant may cancel a public adjuster contract within 10 days of the contract being executed without any penalty.[7] If the contract was executed based on events related to a declared state of emergency by the Governor, the insured may cancel the contract within 30 days after the date of the loss or within 10 days after the contract was executed – whichever is longer.[8]

Public adjuster contracts are required to include a disclosure informing insureds of their right to cancel the contract, the timeframe for cancelling without a penalty, and information about how to provide the notice of cancellation to the public adjuster.[9]

Solicitation and Ethical Guidelines

Public adjusters may only solicit business Monday through Saturday between 8 a.m. and 8 p.m.[10] Additionally, current law prohibits loans or advances to clients or prospective clients, or gifts above $25 as inducements.[11]

Validity of Contracts when one Party Lacks the Capacity to Consent

When a person lacks the capacity to consent, contracts are either void or voidable depending on the specific person's circumstances. Absent a prior adjudication of incompetency, a contract entered into by a person who could not understand in a reasonable manner the nature and consequences of the transaction is generally voidable.[12] This means that the contract remains in effect until a court determines that incapacity existed and the party would like to cancel the contract.[13] To determine lack of capacity under these circumstances, courts can consider several factors, including: [14]

- medical and psychiatric history,
- medical and psychiatric diagnoses and opinions,
- behavior at the time of the transaction, and
- the circumstances surrounding the execution of the contract.

Rescission (which means cancellation of the contract) is a remedy in these cases, and if the other party knew or should have known about the incapacity restitution may also be available as a remedy.[15]

If a court had adjudicated a party incompetent prior to the execution of the contract, the contract is automatically void. This is the case even if the other party had no knowledge about the prior adjudication.[16]

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[4] *Id.*
[5] *Id.*
[6] S. 626.112, F.S. and s. 626.854, F.S.
[7] S. 626.854(7), F.S.
[8] *Id.*
[9] *Id.*
[10] S. 626.854(5), F.S.
[11] S. 626.854(10), F.S.
[12] Robert W. Lee, *Mental Illness and the Right to Contract*, Florida Bar Journal, 48, Dec. 1998.
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*

Department of Financial Services

The Department of Financial Services (DFS) regulates public adjusters and has explicit authority under the Florida Insurance Code to license public adjusters and take disciplinary action in the event of misconduct. DFS may deny, suspend, or revoke a public adjuster or public adjuster apprentice's license and impose administrative fines of up to $5,000 per act for violations such as:[17]

- violating any provision of chapter 626, F.S.;
- receiving payment or anything of value as a result of an unfair or deceptive practice;
- receiving or accepting any kickbacks or other thing of value, entering into a split-fee agreements with individuals who are not public adjusters, or being paid for services that have not been performed; or
- violating any ethical rule adopted by the department.

DFS may also take disciplinary action against a public adjuster's license for soliciting or otherwise taking advantage of a person who is vulnerable, emotional, or otherwise upset as the result of trauma, accident, or a similar event. However, the term "vulnerable" is not defined in the Florida Insurance Code.[18]

DFS may also take administrative action and impose fines against persons providing public adjuster services without a license.[19]

Vulnerable adults

The Adult Protective Services program is located within the Department of Children and Families (DCF), and is responsible for investigating allegations of abuse, neglect or exploitation, as provided in the Adult Protective Services Act (Act).[20]

The Act defines a vulnerable adult as "a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging."[21]

The Act also defines the term "lacks capacity to consent" as having "a mental impairment that causes a vulnerable adult to lack sufficient understanding or capacity to make or communicate responsible decisions concerning person or property, including whether or not to accept protective services."[22]

Any person who knows, or has reasonable cause to suspect, that a vulnerable adult is being abused, neglected, or exploited, is required to report the situation to the central abuse hotline.[23] DCF must start a protective investigation within 24 hours of a person making the report.[24] If a caregiver refuses to allow DCF to begin a protective investigation or interferes with the investigation, the department can contact the appropriate law enforcement agency for assistance.[25] If DCF has reason to believe that the abuse, neglect, or exploitation is perpetrated by a second party, the appropriate law enforcement agency and state attorney must be notified.[26] The department must submit a preliminary written report to the law enforcement agencies within 5 working days after the oral report and complete the investigation within 60 days.[27]

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[17] S. 626.8698, F.S.
[18] S. 626.8698(5), F.S.
[19] S. 626.854(21), F.S.
[20] *See* s. 415.101, F.S. ("Sections 415.101-415.113 may be cited as the Adult Protective Services Act.")
[21] S. 415.102(28), F.S.
[22] S. 415.102(15), F.S.
[23] S. 415.1034, F.S.
[24] S. 415.103, F.S.
[25] S. 415.104, F.S.
[26] *Id.*
[27] *Id.*

It is a second-degree misdemeanor[28] for a person to knowingly and willfully fail to report a case of known or suspected exploitation of a vulnerable adult or prevent another person from doing so.[29]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Brackett	Miguez
Civil Justice & Claims Subcommittee				
Commerce Committee				

[28] A second degree misdemeanor is punishable by not more than 60 days in county jail and a fine not exceeding $500. S. 775.082, F.S. and s. 775.083, F.S.

[29] S. 415.111(1), F.S.

A bill to be entitled

An act relating to public adjuster contracts; amending s. 626.854, F.S.; authorizing certain persons to rescind a contract for public adjuster services; amending s. 626.8698, F.S.; clarifying the acts that may subject a public adjuster or public adjuster apprentice to discipline; amending s. 626.8796, F.S.; authorizing certain persons to rescind a contract for public adjuster services; providing an effective date.

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

Section 1. Subsection (7) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(7)(a) An insured or a claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 10 days after the date on which the contract is executed. If the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, an insured or a claimant may cancel the public adjuster's contract to adjust a claim without penalty or

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

obligation within 30 days after the date of loss or 10 days after the date on which the contract is executed, whichever is longer. The public adjuster's contract must contain the following language in minimum 18-point bold type immediately before the space reserved in the contract for the signature of the insured or claimant:

"You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract. If this contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, you may cancel this contract for any reason without penalty or obligation to you within 30 days after the date of loss or 10 days after the date on which the contract is executed, whichever is longer. You may also cancel the contract without penalty or obligation to you if I, as your public adjuster, fail to provide you and your insurer a copy of a written estimate within 60 days of the execution of the contract, unless the failure to provide the estimate within 60 days is caused by factors beyond my control, in accordance with s. 627.70131(5)(a)2., Florida Statutes. The 60-day cancellation period for failure to provide a written estimate shall cease on the date

I have provided you with the written estimate."

The notice of cancellation must ~~shall~~ be provided to ...(name of public adjuster)..., submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

(b) Notwithstanding any other provision of this chapter, an insured who is a vulnerable adult or who lacks capacity to consent, as those terms are defined in s. 415.102, or the legal representative of such insured persons, may rescind a contract for public adjuster services to adjust a claim at any time without penalty or further obligation.

Section 2. Section 626.8698, Florida Statutes, is amended to read:

626.8698 Disciplinary guidelines for public adjusters and public adjuster apprentices.—The department may deny, suspend, or revoke the license of a public adjuster or public adjuster apprentice, and administer a fine not to exceed $5,000 per act, for any of the following acts:

(1) Violating any provision of this chapter or a rule or order of the department.~~;~~

(2) Receiving payment or anything of value as a result of an unfair or deceptive practice.~~;~~

(3) Receiving or accepting any fee, kickback, or other

thing of value pursuant to any agreement or understanding, oral or otherwise; entering into a split-fee arrangement with another person who is not a public adjuster; or being otherwise paid or accepting payment for services that have not been performed.~~;~~

(4) Violating s. 316.066 or s. 817.234.~~;~~

(5) Soliciting or otherwise taking advantage of a person who is a vulnerable adult, as defined is s. 415.102, or who is emotional~~,~~ or otherwise upset as the result of a trauma, accident, or other similar occurrence.~~; or~~

(6) Violating any ethical rule of the department.

Section 3. Subsection (4) of section 626.8796, Florida Statutes, is amended to read:

626.8796 Public adjuster contracts; disclosure statement; fraud statement.—

(4)(a) The insured may rescind the contract for public adjuster services if the public adjuster has not submitted a written estimate to the insurer within 60 days after executing the contract, unless the failure to provide the written estimate within 60 days is caused by factors beyond the public adjuster's control.

(b) Notwithstanding any other provision of this chapter, an insured who is a vulnerable adult or who lacks capacity to consent, as those terms are defined in s. 415.102, or the legal representative of such insured persons, may rescind a contract for public adjuster services at any time without penalty or

further obligation.

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

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

HB 767

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 767	**COMPANION BILL:** SB 832 (Avila)
TITLE: Residential Property Insurance	**LINKED BILLS:** None
SPONSOR(S): Benarroch	**RELATED BILLS:** None

Committee References

Insurance & Banking ➤ State Administration Budget ➤ Commerce

SUMMARY

Effect of the Bill:
The bill requires property insurers seeking a rate change to prepare a rate transparency report with information in plain language that helps consumers have a better understanding of insurance. The report must be included with any offer of coverage and upon policy renewal. It must include a graphic breakdown of the factors affecting the insurance rate, including the cost of reinsurance, the cost of claims, and profits.

The bill requires the Office of Insurance Regulation (OIR) to create a resource center on its website to help consumers understand insurance. It must include, among other things, information on the dynamics of the insurance market, the claims process, consumer protection, disaster preparedness, and on the insurance coverage choices available to consumers.

The bill provides that the statewide average requested rate change and final approved statewide average rate change in a filing, as well as the county rating examples submitted to OIR through the rate collection system for the purpose of displaying rates on its website, are not a trade secret.

The bill provides that when establishing the coverage amount or adjudicating a claim for a dwelling or other structure under a homeowners' insurance policy, an insurer may not include the value of the land on which the dwelling or structure is located.

Fiscal or Economic Impact:
There may be an indeterminate fiscal impact on the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill requires insurers seeking a rate change for residential property coverage after October 1, 2026, to prepare a rate transparency report. The Office of Insurance Regulation (OIR) may accept the rate transparency report. However, if OIR finds that the report does not provide the information in concise and plain language that aids consumers in their understanding of insurance or finds the report to be misleading, OIR must return the report to the property insurer for modification. (Section 1).

OIR's acceptance of the rate transparency report that accompanies a rate filing is not considered an approval of the request for a rate change. (Section 1).

The report must follow a standard format set by the Financial Services Commission (FSC) and must include a graphic breakdown of the factors that affect the insurer's rate. The report must be included with any offer of coverage and upon policy renewal to the insured. If the report has not been accepted for use or modified in

accordance with OIR's direction, the report must indicate that it is preliminary and subject to modification by the insurer. The report must include the following factors, which must add up to 100 percent:

- the percentage of the total rate factor associated with the cost of reinsurance;
- the percentage of the total rate factor associated with the cost of claims;
- the percentage of the total rate factor associated with the defense containment and costs;
- the percentage of the total rate factor associated with fees and commissions;
- the percentage of the rate factor associated with profit and contingency of the insurer; and
- any other categories deemed necessary by OIR or the FSC. (Section 1).

A rate transparency report must also include the following information:

- any major adverse findings by OIR within the previous three calendar years;
- whether the insurer uses affiliated entities to perform functions of the insurer;
- contact information for the Division of Consumer Services within the Department of Financial Services (DFS);
- contact information for OIR;
- the address for OIR's website with public access to rate filing information;
- any changes to the total insured value from the last policy period. (Section 1).

The bill requires OIR to define the terms in the transparency report in concise and plain language to help consumers understand insurance better. (Section 1).

The bill requires OIR to create a resource center on its website to help consumers understand insurance. It must include:

- Reports, using graphic information whenever possible, outlining information about the state of the market and the adverse and positive trends affecting it.
- Tools that aid consumers in finding insurers, including a list of all insurers in the state and their contact information.
- Tools that aid consumers in selecting coverages beneficial to them including:
    - educational materials that explain the types of coverage in residential property insurance coverage;
    - the difference between replacement cost reimbursement and actual cash value reimbursement;
    - a glossary of common terms used in insurance policies;
    - a comparison of the coverage, terms, conditions, and exclusions contained in different homeowners' and dwelling fire forms; and
    - answers to commonly asked questions about residential property insurance coverage.
- Information about available mitigation credits and discounts and the My Safe Florida Home Program.
- Access to the rate transparency report, annual statements, market conduct information, and other Information related to each insurer.
- Information on the Citizens Property Insurance Corporation take-out process[1], the clearinghouse[2], and general information as reported by OIR.
- Information on the claims process, including:
    - clear, step-by-step guidance on how to file a claim, what to expect during the claim process, and timelines for resolution of a claim;
    - the obligations of insurers and insureds related to claim reporting, claim handling, communications regarding claims, claim investigations, claim decisions, and claim payments; and
    - for each insurer with active policies in the state, the means by which to report a claim, including telephone numbers, e-mail addresses, or website addresses the insured can use to report a claim.

[1] The take-out process allows authorized private market property insurers to select Citizens' policies for the purpose of offering coverage. *See* s. 627.351, F.S.

[2] The clearinghouse program is designed to confirm eligibility for coverage through Citizens. New and renewal personal lines residential policies for Citizens are placed into the clearinghouse where participating private insurers can review and decide to make offers of coverage before policies are placed or renewed with Citizens. *See* s. 627.3518, F.S.

- Information on consumer protection, including:
  - the rights of insureds under Florida law related to coverage, coverage renewals, nonrenewals, and cancellations, and mandated offers of coverage; and
  - information on how to file a complaint with the Division of Consumer Services at DFS.
- Information on news and updates relevant to consumers regarding the residential property insurance market, including regulatory changes, information on insurers that enter or exit the market, and industry trends.
- Information on disaster preparedness directly related to insurance, prepared by OIR or the Division of Emergency Management.
- For any residential property rate filing: whether the insurer uses affiliated entities to perform administrative, claims handling, or other functions of the insurer, and if so, the total percentage of direct written premium paid to the affiliated entities by the insurer in the preceding calendar year. (Section 1).

The bill provides that the statewide average requested rate change and final approved statewide average rate change within a filing is not a trade secret and is not subject to the public records exemption for trade secrets provided in Florida's public records law or in the Florida Insurance Code. Additionally, the bill provides that the county rating examples submitted to OIR through the rate collection system for purpose of displaying rates on OIR's website is not a trade secret and thus not subject to the public records exemptions. (Section 1).

The bill provides that when establishing the coverage amount or adjusting a claim for a dwelling or other structure under a homeowner's insurance policy, an insurer may not include the value of the land on which such dwelling or structure is located. This provision may not be construed to permit inclusion of the value of land for dwellings or structures located on the shoreline, surrounded in whole or in part by a body of water, or on land formed or altered by erosion or accretion. (Section 2).

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

RULEMAKING:

The bill requires the Financial Services Commission to prescribe a format for the rate transparency report required by the bill.

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:

PRIVATE SECTOR:

There may be an indeterminate fiscal impact on the private sector to the extent that it requires insurers to print the rate transparency report and issue it to consumers when coverage is offered and to insureds at the time of renewing their policy.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

CHOICES Website

OIR has an existing rate comparison tool on its website entitled "CHOICES" that provides consumers with rate information for various types of insurance. The CHOICES homeowner's rate comparison tool provides sample average rates for a variety of companies writing insurance in each county, in addition to rates for Citizens Property Insurance Corporation.[3]

The rates provided in the CHOICES system are for illustrative purposes only. The website encourages consumers to contact either an insurance agent or the insurance company for a premium quote based on individual circumstances. Rates for insurers that submitted data as trade secret are not included.[4]

Department of Financial Services

The Department of Financial Services offers a variety of information and resources on its website to educate consumers regarding insurance and financial topics. Information may be found on homeowner's insurance, automobile insurance, life insurance and annuities, health insurance, and long-term care insurance.[5] The resources include over 30 consumer guides on specific insurance topics, including:[6]

- assignment of benefits;
- automobile insurance;
- filing an auto claim;
- automobile mediation program;
- homeowners' insurance;
- homeowner claims bill of rights;
- post-disaster insurance claims;
- premium discounts for hurricane loss mitigation;
- residential property mediation program;
- renters' insurance;
- settling a sinkhole claim;
- sinkhole and catastrophic ground cover collapse;
- Florida's hurricane deductible;
- what to expect after filing a homeowners' claim;
- the flood claim process; and
- getting help with a property insurance claim.

These guides are available in both English and Spanish.[7]

Transparency in Rate Regulation

OIR is required to provide the following information with respect to any residential property rate filing on a publicly accessible website:[8]

- the overall rate change requested by the insurer;
- the rate change approved by OIR along with all of the actuary's assumptions and recommendations forming the basis of OIR's decision; and
- certification by OIR's actuary that, based on the actuary's knowledge, his or her recommendations are consisted with accepted actuarial principles.

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[3] Florida Office of Insurance Regulation, *CHOICES Rate Comparison Tool*, https://floir.com/consumers/choices-rate-comparison-search (last visited Jan. 15, 2026).
[4] *Id.*
[5] Florida Department of Financial Services, *About the Division*, https://www.myfloridacfo.com/Division/Consumers/ (last visited Jan. 15, 2026).
[6] Florida Department of Financial Services, *Consumer Guides*, https://www.myfloridacfo.com/division/consumers/understanding-insurance/guides (last visited Jan. 15, 2026).
[7] *Id.*
[8] S. 627.0621(2)(a), F.S.

OIR must provide on its website a means for any policyholder who may be affected by a proposed rate change to send an e-mail to OIR regarding the proposed rate change.[9] Any such e-mail must be accessible to the actuary assigned to review the rate filing.[10]

Insurer Reporting of Property Insurance Data and other Information to OIR

Every insurer and insurer group doing business in Florida must file monthly reports with OIR.[11] Every insurer and insurer group doing business in Florida must file monthly reports with OIR:[12]

- the total number of policies in force at the end of each month;
- the total number of policies canceled;
- the total number of policies nonrenewed;
- the number of policies canceled due to hurricane risk;
- the number of policies renewed due to hurricane risk;
- the number of new policies written;
- the total dollar value of structure exposure under policies that include wind coverage;
- the number of policies that exclude wind coverage;
- the number of claims opened each month;
- the number of claims closed each month;
- the number of claims pending each month; and
- the number of claims in which either the insurer or insured invoked any form of alternative dispute resolution, and specifying which form of alternative dispute resolution was used.

OIR must aggregate this data on a statewide basis and make it publicly available by publishing such on OIR's website within one month after each quarterly and annual filing.[13] This information, when aggregated on a statewide basis, is not a trade secret and is not subject to a public records exemption.[14]

Types of Coverage and Policy Forms

There are eight different homeowners' policy forms.[15] Policy forms represent the type of property insurance needed for a homeowner, condo owner, or renter.[16] These forms include:

- HO-1 – these forms are the most basic type of home insurance, and it protects only against eleven specified perils, such as fire, lightning, windstorms, and hail, but do not provide coverage for liability nor personal property.
- HO-2 – these policies cover all the common perils from HO-1, plus seven additional perils including falling objects, certain sudden or accidental damage, and the weight of ice, snow, or sleet. These policies only cover named perils, meaning that if a peril isn't explicitly listed in the policy, it won't be covered by the insurer. Some of these policies provide coverage for personal property and personal liability.
- HO-3 – this is the most common type of homeowners insurance, and it provides coverage for all perils except those explicitly excluded. These policies also provide coverage for personal property and personal liability coverage.
- HO-4 – this policy form is for renters' insurance.
- HO-5 – this is known as the comprehensive form and provides the most coverage. Personal property losses are repaid based on the replacement cost for the item, instead of the actual cash value. These policies tend to have higher coverage limits and less restrictions on perils.
- HO-6 – this policy form applies to condo owners.

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[9] S. 627.0621(2)(b), F.S.
[10] *Id*.
[11] S. 624.424(10)(a), F.S.
[12] *Id*.
[13] S. 624.424(10)(b), F.S.
[14] *Id*.
[15] Progressive, *What are the different types of homeowners insurance policies?*, https://www.progressive.com/homeowners/faq/policy-types/ (last visited Jan. 15, 2026).
[16] *Id*.

- HO-7 – this policy form applies to mobile homes.
- HO-8 – this policy form applies to older properties, typically built more than 40 years ago.

My Safe Florida Home Program

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.[17]

Grants are matched with $2 provided by the state for every $1 provided by the homeowner up to $10,000.[18]

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.[19] 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.[20]

Upon their filing by an insurer or rating organization, the OIR determines the discounts, credits, and other rate differentials.[21] 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.[22]

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.[23] The FSC 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.[24]

Trade Secret and Public Records Exemptions

Florida law defines "trade secret" as information that derives independent economic value from not being generally known by other people who can obtain economic value from its disclosure or us and that is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.[25]

When insurers submit documents to OIR or DFS pursuant to the Florida Insurance Code, or as required by rule of OIR, DFS, or the FSC, the insurer may file with OIR or DFS a notice of trade secret.[26] If OIR or DFS receive a public records request for a document marked as trade secret, OIR or DFS must notify the person that certified the document as trade secret.[27] The notice must inform the person that the company has 30 days following receipt of the notice to file an action in circuit court to get a determination of whether the document contains trade secrets and an order barring public disclosure of the document.[28]

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[17] S. 215.5586, F.S.
[18] *Id.*
[19] S. 627.062(2)(j), F.S.
[20] S. 627.0629(1), F.S.
[21] *Id.*
[22] *Id.*
[23] S. 627.711(1), F.S.
[24] S. 627.711(2)(a), F.S.
[25] S. 688.002(4), F.S.
[26] S. 624.4213, F.S.
[27] *Id.*
[28] *Id.*

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Brackett	Miguez
State Administration Budget Subcommittee				
Commerce Committee				

A bill to be entitled

An act relating to residential property insurance; amending s. 627.0621, F.S.; requiring that certain rate filings with the Office of Insurance Regulation from residential property insurers include rate transparency reports; providing for the office to accept such reports or to request that the insurer make modifications; providing construction; providing requirements for such reports; requiring insurers to provide such reports to consumers; requiring that the report indicate that it is preliminary and subject to modification by the insurer at the direction of the office under certain circumstances; requiring the office to define terms used in such reports; requiring the office to establish and maintain a comprehensive resource center on its website; providing requirements for the resource center; specifying that certain information is not a trade secret and is not subject to certain public records exemptions; amending s. 627.7011, F.S.; prohibiting an insurer from including the value of certain land when establishing a homeowner's policy coverage amount or adjusting certain claims; providing construction; amending s. 627.7142, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Present subsection (2) of section 627.0621, Florida Statutes, is redesignated as subsection (3) and amended, and a new subsection (2) is added to that section, to read:

627.0621 Transparency in rate regulation.—

(2) RATE TRANSPARENCY REPORT.—

(a) Beginning October 1, 2026, every rate filing requesting a rate change for residential property coverage from a property insurer must include a rate transparency report for acceptance or, if necessary, modification by the insurer as directed by the office. The office may accept the rate transparency report for filing; or, if the office finds that the report fails to provide the required information in concise, plain language that aids consumers in their understanding of insurance or that the report is misleading, the office must return the report to the insurer with specific directions for modification. The office's acceptance of the report for use or direction for modification may not be deemed an approval pursuant to s. 627.062. The report must be compiled in a uniform format prescribed by the commission and must include a graphic representation identifying a percentage breakdown of rating factors anticipated by the company, book, or program affected by the filing.

(b) Along with an offer of coverage and upon renewal, an insurer shall provide the corresponding copy of the rate transparency report for the consumers' offered rate to aid consumers in their understanding of insurance. If the report has not been accepted for use or modified in accordance with the office's direction, the report must indicate that it is preliminary and subject to modification by the insurer at the direction of the office.

(c) The rate transparency report must include the following categories of the book or program at the cumulative level:

1. The percentage of the total rate factor associated with the cost of reinsurance.

2. The percentage of the total rate factor associated with the cost of claims.

3. The percentage of the total rate factor associated with the defense containment and costs.

4. The percentage of the total rate factor associated with fees and commissions.

5. The percentage of the rate factor associated with profit and contingency of the insurer.

6. Any other categories deemed necessary by the office or commission.

An estimated percentage of the influence of each listed factor

provided must equal 100 percent.

(d) The insurer shall provide the rate transparency report to the office upon the filing of a rate change with the office.

(e) In addition to the categories required in paragraph (c), the rate transparency report must also include the following information:

1. All major adverse findings by the office for the previous 3 calendar years.

2. Whether the insurer uses affiliated entities to perform functions of the insurer.

3. Contact information, including a telephone number, hours of service, and an e-mail address, for the Division of Consumer Services of the department.

4. Contact information for the office.

5. Address for the website for public access to rate filing and affiliate information outlined in subsection (3).

6. Any change in the total insured value from the last policy period.

(f) The office shall define, in concise and plain language, any term used in the rate transparency report to aid consumers in their understanding of insurance.

(3)~~(2)~~ WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—

(a) The office shall establish and maintain a comprehensive resource center on its website which uses concise

and plain language to aid consumers in their understanding of insurance. The website must include substantive information on the current and historical dynamics of the market, data concerning the financial condition and market conduct of insurance companies, and insurance options available to consumers. At a minimum, the website must contain the following:

1. Reports, using graphic information whenever possible, which outline information about the state of the market and adverse and positive trends affecting it.

2. Tools that aid consumers in finding insurers, including, but not limited to, a listing of all companies actively doing business in this state which includes each company's address, website, and all telephone numbers and e-mail addresses to be used by insureds and applicants for coverage.

3. Tools that aid consumers in selecting the coverages beneficial to them, including, but not limited to:

a. Educational materials that explain the types of coverage in residential property insurance policies; the difference between replacement cost reimbursement and actual cash value reimbursement; a glossary of common terms used in policies; and a comparison of the coverage, terms, conditions, and exclusions contained in different homeowners' and dwelling fire forms.

b. Answers to commonly asked questions about residential property insurance coverage.

4. Information about mitigation credits and the My Safe Florida Home Program, as well as other credits and discounts insurers may offer beyond wind mitigation.

5. Access to the rate transparency report, annual statements, market conduct information, and other information related to each insurer.

6. Information on the Citizens Property Insurance Corporation take-out process, the clearinghouse, and general information as reported by the office.

7. Information on the claims process, including, but not limited to:

a. Clear, step-by-step guidance on how to file a claim, what to expect during the claim process, and timelines for resolution of a claim.

b. The obligations of insurers and insureds related to claim reporting, claim handling, communications regarding claims, claim investigations, claim decisions, and claim payments.

c. For each insurer with active policies in this state, the means by which to report a claim, including any telephone numbers, e-mail addresses, or website addresses used for claim reporting.

8. Information on consumer protection, including, but not limited to:

a. The rights of insureds under Florida law related to

coverage; coverage renewals, nonrenewals, and cancellations; and mandated offers of coverage.

b. Information on how to file consumer complaints with the Division of Consumer Services in the Department of Financial Services.

9. Information on news and updates relevant to consumers regarding this state's residential property insurance market, including regulatory changes, information on insurers that enter or exit the market, and industry trends.

10. Information on disaster preparedness directly related to insurance, prepared by the office or by the Division of Emergency Management.

11. With respect to any residential property rate filing~~,~~ ~~the office shall provide the following information on a publicly accessible Internet website~~:

a.~~1.~~ The overall rate change requested by the insurer.

b.~~2.~~ The rate change approved by the office along with all of the actuary's assumptions and recommendations forming the basis of the office's decision.

c.~~3.~~ Certification by the office's actuary that, based on the actuary's knowledge, his or her recommendations are consistent with accepted actuarial principles.

d. Whether the insurer uses affiliated entities to perform administrative, claims handling, or other functions of the insurer and, if so, the total percentage of direct written

premium paid to the affiliated entities by the insurer in the preceding calendar year.

(b) For any rate filing, regardless of whether ~~or not~~ the filing is subject to a public hearing, the office shall provide on its website a means for any policyholder who may be affected by a proposed rate change to send an e-mail regarding the proposed rate change. Such e-mail must be accessible to the actuary assigned to review the rate filing.

(c) The statewide average requested rate change and final approved statewide average rate change within a filing is not a trade secret as defined in s. 688.002 or s. 812.081(1) and is not subject to the public records exemption for trade secrets provided in s. 119.0715 or s. 624.4213.

(d) County rating examples submitted to the office through the rate collection system for the purpose of displaying rates on the office website are not a trade secret as defined in s. 688.002 or s. 812.081(1) and are not subject to the public records exemption for trade secrets provided in s. 119.0715 or s. 624.4213.

Section 2. Present subsections (5) and (6) of section 627.7011, Florida Statutes, are redesignated as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

627.7011 Homeowners' policies; offer of replacement cost coverage and law and ordinance coverage.—

(5) When establishing the coverage amount or adjusting a claim for a dwelling or other structure under a homeowner's insurance policy, an insurer may not include the value of the land on which such dwelling or structure is located. This subsection may not be construed to permit inclusion of the value of land for dwellings or structures located on the shoreline, surrounded in whole or in part by a body of water, or on land formed or altered by erosion or accretion.

Section 3. Section 627.7142, Florida Statutes, is amended to read:

627.7142 Homeowner Claims Bill of Rights.—An insurer issuing a personal lines residential property insurance policy in this state must provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication with respect to a claim. The purpose of the bill of rights is to summarize, in simple, nontechnical terms, existing Florida law regarding the rights of a personal lines residential property insurance policyholder who files a claim of loss. The Homeowner Claims Bill of Rights is specific to the claims process and does not represent all of a policyholder's rights under Florida law regarding the insurance policy. The Homeowner Claims Bill of Rights does not create a civil cause of action by any individual policyholder or class of policyholders against an insurer or insurers. The failure of an insurer to properly deliver the Homeowner Claims Bill of Rights is subject

to administrative enforcement by the office but is not admissible as evidence in a civil action against an insurer. The Homeowner Claims Bill of Rights does not enlarge, modify, or contravene statutory requirements, including, but not limited to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy or ss. 627.7011(7)(e) and 627.702(7) ~~ss. 627.7011(6)(e) and 627.702(7)~~. The Homeowner Claims Bill of Rights must state:

HOMEOWNER CLAIMS
BILL OF RIGHTS

This Bill of Rights is specific to the claims process and does not represent all of your rights under Florida law regarding your policy. There are also exceptions to the stated timelines when conditions are beyond your insurance company's control. This document does not create a civil cause of action by an individual policyholder, or a class of policyholders, against an insurer or insurers and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy.

YOU HAVE THE RIGHT TO:

1. Receive from your insurance company an acknowledgment of your reported claim within 7 days after the time you communicated the claim.

2. Upon written request, receive from your insurance company within 30 days after you have submitted a complete proof-of-loss statement to your insurance company, confirmation that your claim is covered in full, partially covered, or denied, or receive a written statement that your claim is being investigated.

3. Receive from your insurance company a copy of any detailed estimate of the amount of the loss within 7 days after the estimate is generated by the insurance company's adjuster.

4. Within 60 days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your claim.

5. Receive payment of interest, as provided in s. 627.70131, Florida Statutes, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or

supplemental claim or the undisputed portion of your claim or does not deny your claim within 60 days after your claim is filed. The interest, if applicable, must be paid when your claim or the undisputed portion of your claim is paid.

6. Free mediation of your disputed claim by the Florida Department of Financial Services, Division of Consumer Services, under most circumstances and subject to certain restrictions.

7. Neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.

8. Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or questions pertaining to the handling of your claim. You can reach the Helpline by phone at ...(toll-free phone number)..., or you can seek assistance online at the Florida Department of Financial Services, Division of Consumer Services' website at ...(website address)....

YOU ARE ADVISED TO:

1. File all claims directly with your insurance company.

2. Contact your insurance company before entering into any contract for repairs to confirm any managed repair policy provisions or optional preferred vendors.

3. Make and document emergency repairs that are necessary to prevent further damage. Keep the damaged property, if feasible, keep all receipts, and take photographs or video of damage before and after any repairs to provide to your insurer.

4. Carefully read any contract that requires you to pay out-of-pocket expenses or a fee that is based on a percentage of the insurance proceeds that you will receive for repairing or replacing your property.

5. Confirm that the contractor you choose is licensed to do business in Florida. You can verify a contractor's license and check to see if there are any complaints against him or her by calling the Florida Department of Business and Professional Regulation. You should also ask the contractor for references from previous work.

6. Require all contractors to provide proof of insurance before beginning repairs.

7. Take precautions if the damage requires you to leave your home, including securing your property; ~~and~~ turning off your gas, water, and electricity;~~, and~~

contacting your insurance company; and providing ~~provide~~ a phone number where you can be reached.

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

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

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

BILL #: HB 777	**COMPANION BILL:** None
TITLE: Pub. Rec./Office of Financial Regulation	**LINKED BILLS:** HB 381 Barnaby
SPONSOR(S): Barnaby	**RELATED BILLS:** SB 1440 (Martin)

Committee References

Insurance & Banking ➤ Government Operations ➤ Commerce

SUMMARY

Effect of the Bill:
The bill, which is linked to the passage of HB 381, makes confidential certain information related to mortgage businesses, money services businesses, and financial institutions such as information relating to the cybersecurity requirements proposed in HB 381, investigations conducted by OFR, and information contained in a financial institution's application for formation.

Fiscal or Economic Impact:
The bill may have an indeterminate impact on the private sector.

Extraordinary Vote Required for Passage:
The bill requires a two-thirds vote of the membership of both houses of the Legislature for final passage.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Mortgage businesses and money services businesses:
The bill makes the following information confidential and exempt from Florida's public records laws:

- Information received by the Office of Financial Regulation ("OFR") relating to the cybersecurity requirements for mortgage businesses and money services businesses proposed in HB 381, including information received relating to the written response plan, investigation and notice of a security breach. (Section 1).
- Information received by OFR as a result of an investigation of a mortgage business or money services business by OFR or a law enforcement agency, until said investigation is complete. (Section 3).

The bill includes the constitutionally required public necessity statement, in which the bill notes that premature or unrestricted release of information on cybersecurity events could compromise ongoing investigations, expose system vulnerabilities, and hinder OFR's ability to protect consumers and regulate mortgage and money services businesses effectively. The bill states that disclosure of such information could place affected individuals at risk of identity theft and financial fraud, and could also reveal trade secrets, proprietary data, and technical safeguards. The bill also finds that protecting information on cybersecurity events ensures that entities cooperate fully with

regulators, encourages accurate reporting of security incidents, and maintains the overall integrity of the financial and cybersecurity infrastructure of Florida. (Sections 2 and 4).

Financial Institutions:

The bill makes the following information confidential and exempt from Florida's public records laws:

- Information received by the OFR relating to notices of data security breaches by financial institutions, as proposed in HB 381. (Section 5).
- Information received by the OFR relating to investigations of financial institutions conducted by OFR or law enforcement agencies, until said investigation is complete. (Section 5).
    - The bill allows OFR to publish information that would otherwise be confidential during an active investigation if publishing such information is in the furtherance of OFR's official duties and responsibilities or could help locate victims of a data breach or improper disposal of customer records. The bill would also allow OFR to disclose otherwise confidential information to another government entity in furtherance of its official duties. (Section 5).

The bill also makes certain information related to the investigation of a financial institution confidential even after an investigation is complete, including:

- information to which another public records exemption applies;
- personal information;
- computer forensic reports;
- information that would reveal weaknesses in a financial institution's data security; and
- information that would disclose a financial institution's propriety information such as trade secrets or competitive interests. (Section 5).

The bill also provides that OFR may not publish this type of information in order to locate victims of a data breach or improper disposal of customer records. (Section 5).

The bill includes the constitutionally required public necessity statement, in which the bill finds that notifications of security breaches involving financial institutions are likely to result in an investigation and that premature release of such information could frustrate, thwart or jeopardize the investigation and impair the ability of OFR to effectively and efficiently administer the required notices. (Section 6).

The bill finds that it is a public necessity to continue to protect from public disclosure all information to which another public record exemption applies once an investigation is completed, as release of such information would undo the specific statutory exemption protecting that information. (Section 6).

The bill finds that an investigation of a data breach or improper disposal of records is likely to result in the gathering of sensitive personal information of customers of financial institutions that could be used for identity theft, and that release of such information could subject possible victims to further financial harm. (Section 6).

The bill finds that the release of a computer forensic report or other information that would reveal a financial institution's data security weaknesses could compromise the institution's future security, could compromise the security of other financial institutions, and could result in the identification of vulnerabilities and further breaches of that system. (Section 6).

The bill further finds that notices received by OFR and information received during an investigation are likely to contain proprietary information, including trade secrets, and the release of such information could result in the identification of vulnerabilities and further breaches of that system. The bill finds that a trade secret derives independent, economic value from being unknown to other persons and allowing public access could destroy their value and could cause financial harm to the financial institution and give competitors an unfair advantage. (Section 6).

Applications for Financial Institutions:
The bill makes information received by OFR relating to an application to form a financial institution confidential, including:

- personal financial information;[1]
- driver license number, passport number, military identification number, or any other number or code issued on a government document used to verify identity;
- books and records of a current or proposed financial institution; and
- the proposed financial institution's proposed business plan. (Section 7).

The bill contains the constitutionally required public necessity statement, and finds that OFR may receive sensitive information when reviewing applications for new financial institutions and that exemptions from public records requirements are necessary to ensure OFR's ability to administer its regulatory duties while preventing unwarranted damage to the proposed financial institution or proposed officers or directors. (Section 8).

The bill finds that the release of such information could lead to identification of an individual involved in a new financial institution and may subject the individual to retribution. The bill finds that public availability of the books and records of a current or proposed financial institution presents an unnecessary risk of harm to the business operations of such institution. The bill further finds that the public availability of a proposed financial institution's business plan may cause competitive harm to its future business operations and present an unfair competitive advantage for existing financial institutions. (Section 8).

Sunset Provision
The bill's exemptions for mortgage businesses, money services businesses, and financial institutions automatically sunset on October 2, 2031, unless reviewed and saved from repeal.

Effective date:
The bill provides that it shall take effect on the same date that HB 381 or similar legislation takes effect. HB 381 has an effective date of July 1, 2026.

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

The bill may have an indeterminate impact on the private sector, to the extent that the bill prevents the release of information that if released, could have a financial impact on businesses or individuals.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Florida's public records laws:
The Florida Constitution sets forth the state's public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.[2] The Legislature, however, may provide by general law for exemption[3] from public record requirements provided the exemption passes by two-thirds vote of each chamber, states with

[1] "Personal financial information" is defined as: information relating to the existence, nature, source, or amount of a person's personal income, expenses, or debt; information relating to a person's financial transactions of any kind; or information relating to the existence, identification, nature, or value of a person's assets, liabilities, or net worth. S. 655.057(13), F.S.
[2] Art. I, s. 24(a), FLA. CONST.
[3] A public record exemption means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the State Constitution. *See* s. 119.011(8), F.S.

specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.[4]

The Florida Statutes also address the public policy regarding access to government records, guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.[5] Furthermore, the Open Government Sunset Review Act[6] provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."[7]

An identifiable public purpose is served if the exemption meets one of the following purposes: [8]

- 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; or
- Protect trade or business secrets.

Pursuant to the Open Government Sunset Review Act, a new public record exemption or substantial amendment of an existing public record exemption is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.[9]

Current public record exemptions related to financial institutions include:[10]

- records and information relating to active investigations.
    - The records remain confidential and exempt after the investigation is completed or ceases to be active to the extent disclosure would jeopardize the integrity of another active investigation, impair the safety and soundness of the financial institution, reveal personal financial information, reveal the identity of a confidential source, defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual, or reveal investigative techniques or procedures.
- reports of examinations, operations, or condition, including working papers, or portions thereof, prepared by, or for the use of, OFR or any other state agency or federal agency responsible for the regulation or supervision of financial institutions. However, this exemption provides for the following release of such reports:
    - The reports may be released to specified persons such as the financial institution under examination (or its holding company) and certain proposed acquirers of a financial institution.
    - The reports must be released within one year after the appointment of a liquidator, receiver, or conservator to the financial institution, except that portions of the reports which identify specified individuals such as depositors and stockholders remain confidential and exempt.
- OFR's informal enforcement actions to the extent that disclosure would jeopardize the integrity of another active investigation, impair the safety and soundness of the financial institution, reveal personal financial information, reveal the identity of a confidential source, defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual, or reveal investigative techniques or procedures.
- trade secrets held by OFR in accordance with its statutory duties.

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[4] Art. I, s. 24(c), FLA. CONST.
[5] *See* S. 119.01, F.S.
[6] S. 119.15, F.S.
[7] S. 119.15(6)(b), F.S.
[8] *Id.*
[9] S. 119.15(3), F.S.
[10] S. 655.057, F.S.

- information received by OFR pursuant to an application for authority to organize a new state bank or new state trust company such as personal financial information, a driver license or other forms of identification, books and records of the proposed institution, and the proposed institution's business plan.
- lists of the members of a credit union or mutual association.
- lists of shareholders of banks, trust companies, and stock associations.

Office of Financial Regulation:
OFR is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry. [11] The Division of Consumer Finance within OFR licenses and regulates various aspects of the non-depository financial services industries, including mortgage and money services businesses.[12] The Division of Financial Institutions within OFR regulates commercial banks, credit unions, family trust companies, international bank and trust company offices, and non-deposit trust companies.[13]

Mortgage businesses:
Chapter 494, F.S. authorizes OFR to regulate the following mortgage businesses: loan originators, mortgage brokers and branches, and mortgage lenders and branches.[14]

Money services businesses:
A "money service business" is defined as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.[15]

Financial institutions:
"Financial institution" means a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or corporations authorized by the Federal Reserve to conduct international banking or finance.[16]

House Bill 381 requirements for mortgage and money services businesses:
House Bill 381 requires mortgage and money services businesses to develop and maintain comprehensive cybersecurity programs designed to protect the nonpublic customer information.

The specific requirements for the cybersecurity program include:
- Developing and maintaining an information security program with administrative, technical, and physical safeguards to protect the business's information system and nonpublic personal information of a customer.
- Regularly testing and monitoring the program.
- Establishing a written incident response plan designed to promptly respond to and recover from cybersecurity events.
- Investigating any actual or potential cybersecurity event.
- Notifying OFR of any security breach affecting 500 or more individuals in Florida at a time.

[11] S. 20.121(3)(a)(2), F.S.
[12] Office of Financial Regulation, Division of Consumer Finance, https://flofr.gov/divisions-offices/division-of-consumerfinance (last visited Jan. 15, 2026).
[13] Office of Financial Regulation, Division of Financial Institutions, https://flofr.gov/divisions-offices/division-of-financial-institutions (last visited Jan. 15, 2026).
[14] Office of Financial Regulation, Division of Financial Institutions, https://flofr.gov/divisions-offices/division-of-financial-institutions (last visited Jan. 15, 2026).
[15] S. 560.103(23), F.S.
[16] S. 655.005(1)(i), F.S.

HB 381 provides that "nonpublic personal information" means

- personally identifiable financial information[17] and
- Any list, description, or other grouping of customers which is derived using any personally identifiable financial information that is not publicly available, such as account numbers, including any list of individuals' names and street addresses which is derived, in whole or in part, using personally identifiable financial information that is not publicly available.

House Bill 381 requirements for financial institutions:

HB 381 requires financial institutions to take reasonable measures to protect and secure electronic data containing personal information.

HB 381 also requires financial institutions to notify the Division of Financial Institutions upon the occurrence or detection of a data breach in which personal information may have been compromised, gathered, or distributed if 500 or more people are affected.

HB 381 provides that "personal information" means:

- an individual's first name, or first initial, and last name, in combination with any of the following data for that individual:
  - A social security number;
  - A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document;
  - A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to the individual's financial account;
  - The individual's biometric data; or
- Any information regarding the individual's geolocation; or
- A username or e-mail address, in combination with a password or security question and answer that would permit access to an online account.

HB 381 also requires financial institutions to notify individuals whose personal information was accessed as a result of the breach.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Brackett	Highsmith
Government Operations Subcommittee				
Commerce Committee				

[17] HB 381 defines "personally identifiable financial information" as information a business obtains about a customer, prospective customer, or former customer relating to the obtainment of a financial product or service.

A bill to be entitled

An act relating to public records; amending s. 494.00125, F.S.; providing an exemption from public records requirements for information received by the Office of Financial Regulation pursuant to certain cybersecurity event provisions relating to information systems and customer information of loan originators, mortgage brokers, and mortgage lenders and for information received by the office as a result of investigations and examinations of such cybersecurity events; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; amending s. 560.129, F.S.; providing an exemption from public records requirements for information received by the office pursuant to certain cybersecurity events provisions relating to information systems and customer information of money services businesses and for information received by the office as a result of investigations and examinations of such cybersecurity events; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; amending s. 655.0171, F.S.; providing an exemption from public records requirements for customer personal information received by the office relating to

breaches of security of financial institutions or received by the office as a result of investigations of such breaches under certain circumstances; providing exceptions; providing definitions; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; amending s. 655.057, F.S.; providing an exemption from public records requirements for certain information received by the office pursuant to applications for authority to organize new financial institutions and for certain information relating to specified persons; providing exceptions; defining the term "personal identifying information"; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (4) is added to section 494.00125, Florida Statutes, to read:

494.00125 Public records exemptions.—

(4) INFORMATION SECURITY; CYBERSECURITY.—All information received by the office pursuant to s. 494.00123, or received by the office as result of an investigation by the office or a law

enforcement agency of a cybersecurity event pursuant to s. 494.00123, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the investigation is completed or ceases to be active. The public records exemption of the information received by the office under this subsection shall be construed in conformity with s. 119.071(2)(c). This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that information on cybersecurity events submitted to or obtained by the Office of Financial Regulation pursuant to s. 494.00123, Florida Statutes, or as a result of an investigation by the office which involve information security programs of loan originators, mortgage brokers, and mortgage lenders and nonpublic personal data of customers of such loan originators, mortgage brokers, and mortgage lenders be made confidential and exempt from public disclosure.

(2)(a) Premature or unrestricted release of information on cybersecurity events, as defined in s. 494.00123(1), Florida Statutes, could compromise ongoing investigations, expose system vulnerabilities, and hinder the office's ability to protect consumers and regulate financial institutions effectively. Disclosure of such information could also place affected

individuals at heightened risk of identity theft and financial fraud while revealing trade secrets, proprietary data, and technical safeguards that could be exploited by malicious actors.

(b) Protecting information on cybersecurity events ensures that entities cooperate fully with regulators, encourages accurate reporting of security incidents, and maintains the overall integrity of the financial and cybersecurity infrastructure of this state.

(3) It is therefore a public necessity that all information received by the office pursuant to s. 494.00123, Florida Statutes, or through an investigation by the office or a law enforcement agency of a cybersecurity event pursuant to s. 494.00123, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

Section 3. Subsection (7) of section 560.129, Florida Statutes, is renumbered as subsection (8), and a new subsection (7) is added to that section to read:

560.129 Confidentiality.—

(7) All information received by the office pursuant to s. 560.1311 or as a result of an investigation by the office or a law enforcement agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the investigation is completed or ceases to be

active. This exemption shall be construed in conformity with s. 119.071(2)(c). This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. The Legislature finds that it is a public necessity that information related to cybersecurity incidents, data breaches, and information security programs submitted to or obtained by the Office of Financial Regulation be made confidential and exempt from public disclosure. Premature or unrestricted release of such information could compromise ongoing investigations, expose system vulnerabilities, and hinder the office's ability to protect consumers and regulate money services businesses effectively. Disclosure could also place affected individuals at heightened risk of identity theft and financial fraud while revealing trade secrets, proprietary data, and technical safeguards that could be exploited by malicious actors. Protecting this information ensures that entities cooperate fully with regulators, encourages accurate reporting of security incidents, and maintains the overall integrity of this state's financial and cybersecurity infrastructure.

Section 5. Subsection (6) is added to section 655.0171, Florida Statutes, as created by HB 381, 2026 Regular Session, to read:

655.0171 Requirements for customer data security and for notices of security breaches.—

(6) PUBLIC RECORDS EXEMPTION.—

(a) All information received by the office pursuant to a notification required by this section, or received by the office pursuant to an investigation by the office or a law enforcement agency under this section, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the investigation is completed or ceases to be active. This exemption shall be construed in conformity with s. 119.071(2)(c).

(b) During an active investigation, information made confidential and exempt pursuant to paragraph (a) may be disclosed by the office:

1. In the furtherance of its official duties and responsibilities;

2. For print, publication, or broadcast if the office determines that such release would assist in notifying the public or locating or identifying a person that the office believes to be a victim of a data breach or improper disposal of customer records, except that information made confidential and exempt by paragraph (c) may not be released pursuant to this subparagraph; or

3. To another governmental entity in the furtherance of its official duties and responsibilities.

(c) Upon completion of an investigation or once an investigation ceases to be active, the following information received by the office remains confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. All information to which another public records exemption applies.

2. Personal information.

3. A computer forensic report.

4. Information that would otherwise reveal weaknesses in a financial institution's data security.

5. Information that would disclose a financial institution's proprietary information.

a. As used in this subparagraph, the term "proprietary information" means information that:

(I) Is owned or controlled by the financial institution.

(II) Is intended to be private and is treated by the financial institution as private because disclosure would harm the financial institution or its business operations.

(III) Has not been disclosed except as required by law or a private agreement that provides that the information will not be released to the public.

(IV) Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as received by the office.

b. The term includes:

(I) Trade secrets as defined in s. 688.002.

(II) Competitive interests, the disclosure of which would impair the competitive business of the financial institution that is the subject of the information.

(d) As used in this subsection, the term "customer records" means any material, regardless of the physical form, on which personal information is recorded or preserved by any means, including, but not limited to, written or spoken words, graphically depicted, printed, or electromagnetically transmitted which are provided by an individual in this state to a financial institution for the purpose of purchasing or leasing a product or obtaining a service.

(e) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. The Legislature finds that it is a public necessity that all information received by the Office of Financial Regulation pursuant to a notification of a violation of s. 655.0171, Florida Statutes, or received by the Department of Legal Affairs pursuant to an investigation by the department or a law enforcement agency relation to a violation of s. 655.0171, Florida Statutes, be made confidential and exempt from s.119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for the following reasons:

(1) A notification of a violation of s. 655.0171, Florida Statutes, is likely to result in an investigation. The premature release of such information could frustrate or thwart the investigation and impair the ability of the office to effectively and efficiently administer s. 655.0171, Florida Statutes. In addition, release of such information before completion of an active investigation could jeopardize the ongoing investigation.

(2) The Legislature finds that it is a public necessity to continue to protect from public disclosure all information to which another public record exemption applies once an investigation is completed or ceases to be active. Release of such information by the office would undo the specific statutory exemption protecting that information.

(3) An investigation of a data breach or improper disposal of customer records is likely to result in the gathering of sensitive personal information, including social security numbers, identification numbers, and personal financial information of customers of financial institutions. Such information could be used for the purpose of identity theft, and release of such information could subject possible victims of the data breach or improper disposal of customer records to further financial harm.

(4) Release of a computer forensic report or other information that would otherwise reveal weaknesses in a covered

financial institution's data security could compromise the future security of that financial institution, or other financial institutions, if such information were available upon conclusion of an investigation or once an investigation ceased to be active. The release of such report or information could compromise the security of current financial institutions and make those financial institutions susceptible to future data breaches. Release of such report or information could result in the identification of vulnerabilities and further breaches of that system.

(5) Notices received by the office and information received during an investigation of a data breach are likely to contain proprietary information, including trade secrets, about the security of the breached system. The release of the proprietary information could result in the identification of vulnerabilities and further breaches of that system. In addition, a trade secret derives independent, economic value, actual or potential, from being generally unknown to, and not readily ascertainable by, other persons. Allowing public access to proprietary information, including a trade secret, through a public records request could destroy the value of the proprietary information and cause a financial loss to the financial institution submitting the information. Release of such information could give business competitors an unfair advantage and weaken the position of the financial institution

supplying the proprietary information in the marketplace.

Section 7. Subsections (6) through (14) of section 655.057, Florida Statutes, are renumbered as subsections (7) through (15), respectively, and a new subsection (6) is added to that section, to read:

655.057 Records; limited restrictions upon public access.—

(6)(a) The following information received by the office pursuant to an application for authority to organize a new financial institution is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Personal financial information.

2. A driver license number, a passport number, a military identification number, or any other number or code issued on a government document used to verify identity.

3. Books and records of a current or proposed financial institution.

4. The proposed financial institution's proposed business plan.

(b) The personal identifying information of a proposed officer or proposed director who is currently employed by, or actively participates in the affairs of, another financial institution received by the office pursuant to an application for authority to organize a new financial institution under chapters 655-667 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the application is approved

and the charter is issued. As used in this paragraph, the term "personal identifying information" means names, home addresses, e-mail addresses, telephone numbers, names of relatives, work experience, professional licensing and educational backgrounds, and photographs.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 8. (1)(a) The Legislature finds that it is a public necessity that information received by the Office of Financial Regulation pursuant to an application for authority to organize a new financial institution pursuant to the Financial Institutions Codes, chapters 655-667, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution to the extent that disclosure would reveal:

1. Personal financial information;

2. A driver license number, a passport number, a military identification number, or any other number or code issued on a government document used to verify identity;

3. Books and records of a current or proposed financial institution; or

4. A proposed financial institution's business plan and any attached supporting documentation.

(b) The Legislature further finds that it is a public necessity that the personal identifying information of a proposed officer or proposed director who is currently employed by, or actively participates in the affairs of, another financial institution be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for the duration of the application process, until the application is approved and a charter is issued.

(2) The office may receive sensitive personal, financial, and business information in conjunction with its duties related to the review of applications for the organization or establishment of new financial institutions. The exemptions from public records requirements provided under subsection (1) are necessary to ensure the office's ability to administer its regulatory duties while preventing unwarranted damage to the proposed financial institution or certain proposed officers or proposed directors of financial institutions in this state. The release of information that could lead to the identification of an individual involved in the potential establishment of a new financial institution may subject such individual to retribution and jeopardize his or her current employment with, or participation in the affairs of, another financial institution. Thus, the public availability of such information has a chilling effect on the establishment of new financial institutions. Further, the public availability of the books and financial

records of a current or proposed financial institution in this state presents an unnecessary risk of harm to the business operations of such institution. Finally, the public availability of a proposed financial institution's business plan may cause competitive harm to its future business operations and presents an unfair competitive advantage for existing financial institutions that are not required to release such information.

Section 9. This act shall take effect on the same date that HB 381 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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 893 **TITLE:** Trust Fund Interest for Purposes Approved by Supreme Court **SPONSOR(S):** Koster	**COMPANION BILL:** None **LINKED BILLS:** None **RELATED BILLS:** SB 1000 (Grall)

Committee References

Insurance & Banking ➤ Judiciary ➤ Commerce

SUMMARY

Effect of the Bill:
The bill expressly authorizes a financial institution to hold funds in an interest-bearing trust account of a lawyer or law firm. The bill requires financial institutions to remit any interest and dividends earned on these accounts to Florida Supreme Court authorized entities for the purposes of providing free legal services. The bill establishes required interest rates for these accounts.

Fiscal or Economic Impact:
The bill may have an indeterminate impact on the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill expressly authorizes a financial institution to hold funds in an interest-bearing trust account of a lawyer or law firm, commonly referred to as an "Interest on Trust Account" or "IOTA." (Section 1).

The bill requires financial institutions to remit any interest or dividends earned on IOTAs to an entity established by the Florida Supreme Court for the purpose of providing free legal services to low-income individuals or for other purposes expressly authorized by the Supreme Court. (Section 1).

The bill requires financial institutions holding IOTAs to pay, net of all fees and charges assessed by the financial institution, interest or dividends at the Wall Street Journal Prime rate in effect on the first business day of each month, less 300 basis points, with a floor of 0.25 percent and a ceiling of 1.5 percent. (Section 1).

Effective date:
The bill provides an effective date of July 1, 2026. (Section 2).

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

The bill may have an indeterminate impact on the private sector. The bill's limits on interest rates may encourage more financial institutions to hold interest-bearing trust accounts of a lawyer or law-firm. Further, entities such as the Funding Florida Legal Aid foundation may see a change in interest revenue as a result of the interest rate limits.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Financial Institution:
Under Florida's financial institutions codes, a "financial institution" means a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq. [1]

Regulation of lawyers:
The Florida Constitution grants the Florida Supreme Court the exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted. [2]

The Florida Supreme Court has established the "authority and responsibilities of The Florida Bar" through the Rules Regulating the Florida Bar. [3] Chapter 5 of the Rules contains the "Rules Regulating Trust Accounts," which all attorneys who maintain trust accounts must abide by.

The IOTA program:
Under Rule 5-1.1(a)(1) of the Rules Regulating the Florida Bar, lawyers must hold in trust, separate from the lawyer's own property, funds and property of clients or third persons that are in the lawyer's possession in connection with representation. [4]

Lawyer trust accounts generally contain funds such as retainer payments, discovery or litigation costs paid in advance, filing fees, or settlement awards. Often the amount of money that a lawyer handles for a single client is small or held for only a short period of time, and therefore cannot earn interest for the client in excess of the costs incurred to collect said interest. [5] Traditionally, lawyers have placed these funds into pooled trust accounts containing other nominal or short-term client funds. [6]

In 1981, the Florida Supreme Court implemented the nation's first IOTA program. [7] According to the American Bar Association, these programs now exist in all 50 states, Washington D.C., Puerto Rico, and the U.S. Virgin Islands. [8]

Under Rule 5-1.1(g)(2) of the Rules Regulating the Florida Bar, all nominal or short-term funds belonging to clients or third persons that are placed in trust with any member of The Florida Bar in the state of Florida must be deposited into one or more IOTA accounts, unless the funds may earn income for the client or third person in excess of the costs incurred to secure the income. [9] Under the IOTA program, lawyers handling nominal or short-term funds that cannot earn net income for clients place these funds into a single, pooled, interest-bearing trust account. [10]

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[1] S. 655.005(1)(i), F.S.
[2] FLA. CONST. art. V, s. 15.
[3] The Florida Bar, *Rules Regulating the Florida Bar,* https://www-media.floridabar.org/uploads/2025/12/2026_06-DEC-RRTFB-12-5-2025.pdf (last visited Jan. 15, 2026).
[4] R. Regulating Fla. Bar Rule 5-1.1(a)(1).
[5] American Bar Association, *Interest on Lawyers' Trust Accounts*, https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/ (last visited Jan. 15, 2026).
[6] *Id.*
[7] *In re Interest on Trust Accounts*, 356 So.2d 799 (Fla. 1978).
[8] American Bar Association, *Interest on Lawyers' Trust Accounts*, https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/ (last visited Jan. 15, 2026).
[9] R. Regulating Fla. Bar Rule 5-1.1(g)(2).
[10] American Bar Association, *Interest on Lawyers' Trust Accounts*, https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/ (last visited Jan. 15, 2026).

Funding Florida Legal Aid:
In 1956, the Florida Bar created a non-profit organization, The Florida Bar Foundation, and subsequently changed the name of the foundation to "Funding Florida Legal Aid" ("Foundation") in 2023. [11] The principal support for the Foundation is derived from the interest and dividends earned on IOTAs. [12]

IOTA interest rates:
On March 16, 2023, the Florida Supreme Court adopted amendments to the Rules Regulating the Florida Bar, including provisions regulating trust fund accounts. The 2023 amendments:

- Expanded the definition of an interest or dividend-bearing account to include a business or consumer deposit account, non-maturing deposit, an investment product, a daily financial institution repurchase agreement or a money market account. [13]
- Required eligible institutions to maintain IOTA accounts that pay the highest interest rate or dividend generally available from the institution to its non-IOTA business or consumer account customers when IOTA accounts meet or exceed the same minimum balance qualifications. [14]
- Mandated that eligible institutions tie minimum interest rates for IOTA accounts to the Wall Street Journal Prime Rate (indexed rate). [15]

The Supreme Court's 2023 amendments implemented the following formula for determining the required interest rate for IOTAs:

- When the Wall Street Journal Prime Rate ("indexed rate") is between 325 and 499 basis points (3.25% and 4.99%), the minimum interest rate paid net of all fees and service charges ("yield") must be no less than 300 basis points (3.00%) below the indexed rate in effect on the first business day of each month.
- When the indexed rate is 500 basis points (5.00%) or above, the yield must be no less than 40% of the indexed rate in effect on the first business day of each month. [16]

Following the change in interest rate calculation, funds for the Foundation increased by over $200 million. [17]

Wall Street Journal Prime Rate:
The Wall Street Journal Prime Rate is an index used by banks to set rates on consumer lending products. [18] To establish this rate, the Wall Street Journal regularly surveys the 30 largest banks in the United States to determine what interest rate they are charging their customers with the highest-rated credit for short-term loans. [19] When 75 percent of the 30 banks change their prime rate, the Wall Street Journal changes its rate. [20]

[11] FFLA, Funding Florida Legal Aid, Leadership and Funding for Justice in Florida, https://fundingfla.org/about-ffla/fflaoverview/ (last visited Jan. 15, 2026).
[12] *Id.*
[13] R. Regulating Fla. Bar Rule 5-1.1(g)(1)(E).
[14] R. Regulating Fla. Bar Rule 5-1.1(g)(5)(A).
[15] R. Regulating Fla. Bar Rule 5-1.1(g)(5)(B).
[16] *Id.*
[17] FFLA, Financial Stewardship, https://fundingfla.org/about-ffla/ffla-finances/ (last visited Jan. 15, 2026).
[18] Bankrate, Wall Street Journal Prime rate https://www.bankrate.com/rates/interest-rates/wall-street-prime-rate/ (last visited Jan. 17, 2026).
[19] *Id.*
[20] *Id.*

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee			Brackett	Highsmith
Judiciary Committee				
Commerce Committee				

A bill to be entitled

An act relating to trust fund interest for purposes approved by the Supreme Court; creating s. 655.98, F.S.; authorizing financial institutions to hold funds in specified trust accounts used for specified purposes expressly authorized by Supreme Court rule; requiring certain entities to use interest and dividends for specified purposes; requiring certain financial institutions to pay specified interest or dividends; providing an effective date.

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

Section 1. Section 655.98 Florida Statutes, is created to read:

655.98 Lawyer or law firm trust account interest rates.—A financial institution may hold funds in an interest-bearing trust account of a lawyer or law firm in which the institution remits interest or dividends on the balance of the deposited funds to an entity established by the Supreme Court. Such entity shall use the interest or dividends to provide or facilitate the provision of free legal services to low-income individuals or for such other purposes as may be expressly authorized by rule of the Supreme Court. If the financial institution holds such an account, it must pay, net of all fees and charges assessed by

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

the financial institution, interest or dividends at the Wall Street Journal prime rate in effect on the first business day of each month, less 300 basis points, with a floor of 0.25 percent and a ceiling of 1.5 percent.

Section 2. This act shall take effect July 1, 2026.

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

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

BILL #: HB 895	**COMPANION BILL:** SB 786 (Berman)
TITLE: Trustee Settlement and Discharge	**LINKED BILLS:** None
SPONSOR(S): Hodgers and Fabricio	**RELATED BILLS:** None

Committee References

Civil Justice & Claims	➤	Insurance & Banking	➤	Judiciary
17 Y, 0 N				

SUMMARY

Effect of the Bill:
HB 895 creates s. 736.10081, F.S., within the Florida Trust Code, to establish a summary procedure for trustee liability and claims discharge in non-adversarial irrevocable trust administrations where the trustee has substantially complied with certain trustee duties, thereby negating the need for judicial process to achieve such a discharge. Under the bill, a trustee wishing to utilize the summary procedure must provide each qualified beneficiary with a trust disclosure document, and receipt by the trustee of a timely written objection to the use of the summary procedure would render the procedure inapplicable to the particular trust's administration. However, if the trustee does not receive a timely written objection, the trustee is discharged upon completion of specified actions and is discharged from all liability and claims arising from any matter adequately disclosed in the trust disclosure document with the same effect as if the court had entered a final order approving that act or omission.

Further, the bill:
- Applies to all trusts that are irrevocable or become irrevocable on or after the bill's effective date.
- Provides an effective date of upon becoming a law.

Fiscal or Economic Impact:
The bill may have an indeterminate fiscal impact on the state court system and on the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

HB 895 creates s. 736.10081, F.S., within the Florida Trust Code, to establish a cost-effective summary procedure for trustee liability discharge in non-adversarial irrevocable trust administrations where the trustee has substantially complied with certain trustee duties. Once such a discharge is obtained, all claims or causes of action against the trustee pertaining to matters properly disclosed in a trust disclosure document would generally be barred. (Section 1)

Qualifying Trustees

Under the bill, a trustee who is in substantial compliance with the duty to inform and account may obtain a settlement of his or her accounts and be discharged when either of the following occurs after six months from the date of the trustee's acceptance of the trusteeship:
- The trust terminates.
- A trustee resigns or is removed from the trust.

In other words, qualifying trustees may initiate the summary procedure for trustee liability and claims discharge, which procedure, when applied, eliminates the need to utilize the often costly, time-intensive processes to obtain such a discharge available under current law. (Section 1)

Trust Disclosure Document Required

The bill requires a trustee seeking to use the summary procedure to send to the trust's qualified beneficiaries and any co-trustees, along with the immediate successor trustee if the trust is not terminating, a trust disclosure document containing all of the following information:

- The name, mailing address, telephone number, and e-mail address of the trustee seeking discharge.
- A plan of distribution for the trust's remaining assets, which includes all of the following:
  - A schedule of the assets reasonably anticipated to be disbursed or distributed by the trustee.
  - The amount of any debts, expenses, and taxes to be paid by the trustee.
  - Any reasonable reserve to be held by the trustee.
- If the trustee's duty to account has not been waived, a trust accounting for the period for which an accounting has not been previously provided to the trust's qualified beneficiaries.
- A statement that the trust has terminated or that the trustee has resigned or has been removed.
- A notice with substantially the following language in at least 12-point type:

> NOTICE: Any claim or cause of action you might have against the trustee arising from any matter disclosed in a trust disclosure document may be barred unless a written statement objecting is received by the trustee from you within 60 days after your receipt of this trust disclosure document and notice. If you have questions, please consult your attorney.

The trustee must also send the trust disclosure document to any other person who the trustee reasonably believes would be affected by such document, and the document and any objections must generally be sent in compliance with the notice requirements of s. 736.0109, F.S. However, under the bill, s. 736.0109(3), F.S., requiring written authorization from the recipient before a document may be sent solely by posting to an electronic account or website, along with the sending of a separate notice to the recipient whenever a notice is posted to the account or website, does not apply. Practically speaking, this means that:

- The trust disclosure document and any objections may be sent in any manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document; and
- Notice or the sending of a document:
  - Is complete when sent; and
  - May be waived by the person to be notified or to whom the document is to be sent. (Section 1)

Objections and Discharge

The summary procedure created by the bill does not apply if the trustee receives a written objection within 60 days after sending the trust disclosure document; such an objection does not need to state the grounds for the objection or be in any particular form. However, if the trustee does not receive a timely written objection, the trustee is discharged upon completion of all distributions or transfers in accordance with the plan of distribution and is discharged from all liability and claims arising from any matter adequately disclosed in the trust disclosure document, including any claim that the trustee failed to inform and account, with the same effect as if the court had entered a final order approving that act or omission; in other words, all claims and causes of action pertaining to such matters are generally thereafter barred.

Further, under the bill:

- A waiver of the right to object is treated as the expiration of the 60-day period without objection.
- The summary process created by the bill is in addition to, and not a replacement of, rights of a trustee to otherwise settle the trustee's accounts. (Section 1)

Application and Effective Date

The bill:

- Applies to all trusts that are irrevocable or become irrevocable on or after the bill's effective date. (Section 2)
- The bill provides an effective date of upon becoming a law. (Section 3)

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have an indeterminate fiscal impact on state government to the extent that it reduces the number of trustees required to obtain a discharge through judicial process, thereby reducing the burden on the state court system.

PRIVATE SECTOR:

The bill may have an indeterminate fiscal impact on the private sector to the extent that use of the summary procedure created by the bill reduces the costs associated with trustee discharge.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Generally speaking, a trust is a relationship in which one party (the "settlor")[1] gives another party (the "trustee")[2] the right to hold title to the settlor's assets for a third party's benefit (the "beneficiary").[3] A trust may be created and take effect during a settlor's lifetime ("a living trust") or may be created by a will or other disposition and take effect when the settlor dies ("testamentary trust").[4] A trust may also be revocable (so that the terms may be changed at any time before the settlor's death) or irrevocable (so that the terms cannot be modified after the trust's creation absent a court order upon the consent of the beneficiaries or where the trust's purposes have become frustrated or illegal).[5]

Most Florida trusts are generally governed by the Florida Trust Code, codified in ch. 736, F.S. However, additional provisions of Florida law may apply if the trust has special attributes, and, importantly, the terms of the trust govern over Trust Code provisions unless the Trust Code provides otherwise.[6]

Notice Requirements

Notice to a person or the sending of a document under the Trust Code must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice document.[7] Permissible methods of notice or for sending a document include fist-class mail, personal delivery, delivery to the person's last known place of residence or business, a properly directed facsimile or other electronic message, including e-mail; or posting on a secure electronic account or website in accordance with statutory requirements.[8] Further:

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[1] "Settlor" means a person, including a testator, who creates or contributes property to a trust. S. 736.0103(18), F.S.
[2] A settlor can designate a trustee, and successor trustees, in the trust document itself; however, where there is no designated trustee, or if the designated trustee is unable or unwilling to accept the trusteeship, the qualified beneficiaries may select a trustee by unanimous agreement, or else a court may appoint a trustee. S. 736.0704, F.S.
[3] A "beneficiary" may have a present or future beneficial interest in a trust, which interest may be vested or contingent. S. 736.0103(4), F.S.
[4] *See* "inter vivos trust" and "testamentary trust," Black's Law Dictionary (11th ed. 2019); s. 736.0401, F.S.
[5] Greg Depersio, Investopedia (Apr. 30, 2023), *Revocable Trust v. Irrevocable Trust: What's the Difference*, https://www.investopedia.com/ask/answers/071615/what-difference-between-revocable-trust-and-living-trust.asp (last visited Jan. 14, 2026).
[6] Ss. 736.0102 and 736.0105, F.S.
[7] S. 736.0109, F.S.
[8] Under the Trust Code, a document that is sent solely by posting on an electronic account or website is not deemed sent unless the sender complies with certain statutory requirements, including the signing of a written notice by the recipient and the sending of a separate notice to the recipient when a document is posted on the electronic account or website. *Id.*

- Notice or a document which the Trust Code otherwise requires to be given or sent need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.[9]
- Notice or the sending of a document under the Trust Code is complete when sent.[10]
- Notice or the sending of a document may be waived by the person to be notified or to whom the document is to be sent.[11]

Trust Creation

Under Florida law, a trust is created only if certain conditions are met. Specifically, to create a trust:

- The settlor must have capacity to create a trust;[12]
- The settlor must indicate an intent to create a trust;
- The trust must have a definite beneficiary,[13] or else be a charitable trust,[14] a trust for the care of an animal,[15] or a trust for a non-charitable purpose;[16]
- The trustee must have duties to perform;[17] and
- The same person cannot be the sole trustee and sole beneficiary.[18]

Further, a trust may be created only to the extent that its purposes are lawful, not contrary to public policy, and possible to achieve.[19]

Trustee Acceptance

Generally speaking, a person designated as trustee accepts the trusteeship:

- By substantially complying with an acceptance method provided for in the trust's terms; or
- If the trust's terms do not provide for an acceptance method, or if any method provided is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating trusteeship acceptance.[20]

However, a person designated as trustee who has not accepted the trusteeship may decline it, and a designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have declined the trusteeship.[21] Further, a person designated as trustee may, without accepting the trusteeship:

- Act to preserve the trust property if, within a reasonable time after acting, the person sends to the beneficiaries a statement declining the trusteeship.[22]
- Inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.[23]

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[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] The capacity required to create, amend, revoke, or add property to a trust, or to direct the actions of the trustee, is generally the same as that required to make a will. In other words, the settlor must be at least 18 years of age and of sound mind, meaning that he or she understands the nature and extent of the property placed in trust, the identities of the beneficiaries, and the effect of the disposition. Ss. 732.501 and 736.0601, F.S.
[13] A beneficiary is "definite" if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities. S. 736.0402(2), F.S.
[14] A "charitable trust" is a trust created for charitable purposes, which may include poverty relief; the advancement of the arts, science, education, or religion; or the promotion of health, governmental, or municipal purposes. S. 736.0405, F.S.
[15] A trust may be created for the care of an animal alive during the settlor's lifetime. Such a trust terminates on the animal's death or, if the trust was created to provide for the care of more than one qualifying animal, on the death of the last surviving animal. S. 736.0408, F.S.
[16] A trust may be created for a non-charitable purpose without a definite or definitely ascertainable beneficiary. Such a trust may not be enforced for more than 1,000 years. S. 736.0409, F.S.
[17] S. 736.0801, F.S.
[18] S. 736.0402(1), F.S.
[19] S. 736.0404, F.S.
[20] S. 736.0701, F.S.
[21] *Id.*
[22] *Id.*

Trustee Duties

After accepting a trusteeship, the trustee must generally comply with the trustee duties set out in the trust instrument. The Trust Code also confers a number of duties on trustees, intended to ensure that trustees put the beneficiaries' interests before their own interests and act fairly and in good faith to preserve and protect the trust's assets for the beneficiaries' benefit. Specifically, a trustee's duties under the Trust Code include:

- Administering the trust in good faith – that is, managing and distributing trust assets[24] – in accordance with the trust's terms and purposes and the beneficiaries' interests, and with the Trust Code;[25]
- Controlling and protecting trust property;[26] and
- Keeping clear, distinct, and accurate records.[27]

A trustee must also keep the trust's beneficiaries reasonably informed of the trust and its administration, which, in the case of an irrevocable trust, is generally accomplished through a trust accounting.[28] Under the Trust Code, a trust accounting must be a reasonably understandable report covering the time from the date of the last accounting or, if none, from the date on which the trustee became accountable, that adequately discloses specified information relating to trust assets and financials.[29] The trustee must generally provide such a trust accounting to each beneficiary at least annually and, generally speaking, upon trust termination or trustee discharge.[30]

Breach of Trust

Where a trustee violates a duty owed to a beneficiary, the trustee commits a breach of trust.[31] To remedy a breach of trust, a court may, among other things:

- Compel the trustee to perform the trustee's duties;
- Enjoin the trustee from committing a breach of trust;
- Compel the trustee to pay money or restore property;
- Suspend or remove the trustee;
- Reduce or deny compensation owed to the trustee; or
- Void a trustee's act.[32]

However, a court typically cannot remedy a breach of trust unless a beneficiary brings a breach of trust action against the trustee within a specified time period after learning about the breach, which may occur when the beneficiary receives a trust disclosure document; such a document is a trust accounting or any other written report from the trustee or a trust director to the beneficiaries, the purpose of which is to adequately disclose a matter to the trust's beneficiaries to allow them to know or reasonably ascertain whether they have any kind of claim against the trustee for breach of trust related to the matter.[33] More specifically, under the statutory limitations period, a beneficiary is barred from bringing a breach of trust action against a trustee with respect to a matter that was adequately disclosed in a trust disclosure document unless the action is brought within six months after receipt of such document or a limitation notice[34] applicable to that document,[35] whichever is received later.[36] Further, a

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[23] *Id.*
[24] The method by which a trustee distributes the trust's assets is sometimes referred to as a "plan of distribution." *See generally* ch. 736, F.S.
[25] S. 736.0801, F.S.
[26] S. 736.0809, F.S.
[27] S. 736.0810, F.S.
[28] S. 736.0813, F.S.
[29] *Id.*
[30] *Id.*
[31] S. 736.1001, F.S.
[32] *Id.*
[33] S. 736.1008(4)(c), F.S.
[34] A limitation notice is a written notice from the trustee or a trust director that a beneficiary's breach of trust action based on a matter adequately disclosed in a trust disclosure document may be barred if it is not brought within six months after receipt of the trust disclosure document or the limitation notice. S. 736.1008(4)(a), F.S.

trustee is not liable to a beneficiary for a breach of trust if the beneficiary consented to the conduct resulting in the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

- The consent, release, or ratification was induced by the trustee's improper conduct; or
- At the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or the material facts relating to the breach.[37]

A claim by a successor trustee or other person acting on behalf of the trust against a prior trustee is barred to the same extent that the claim would be barred if brought by the beneficiary whose interests are represented by the successor trustee or other person acting on behalf of the trust.[38]

Trustee Resignation or Removal

Trustee Resignation

A trustee may resign in accordance with the procedure set forth in the trust instrument and upon notice to the co-trustees or, if none, to the successor trustee who has accepted the appointment, or, if none, to the person or persons who have the authority to appoint a successor trustee. Notwithstanding any provision of the trust's terms, a trustee may also resign:

- Upon at least 30 days' notice to the beneficiaries, the grantor, if living, and all co-trustees; or
- With court approval.[39]

Trustee Removal

The grantor, a co-trustee, or a beneficiary may ask the court to remove a trustee, or the court may remove a trustee on its own initiative.[40] In either instance, the court may remove a trustee if:

- The trustee has committed a serious breach of trust;
- The lack of cooperation among co-trustees substantially impairs the trust's administration;
- Due to the unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that the trustee's removal best serves the beneficiaries' interests; or
- Circumstances have changed substantially or all of the beneficiaries request removal; the court finds that removal of the trustee best serves the beneficiaries' interests and is not inconsistent with a material purpose of the trust; and a suitable co-trustee or successor trustee is available.[41]

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[35] A limitation notice applies to a trust disclosure document when the notice is: contained as a part of the trust disclosure document or as part of another trust disclosure document received within one year before the receipt of the latter trust disclosure document; accompanied concurrently by the trust disclosure document or by another trust disclosure document that was received within one year of the latter trust disclosure document; delivered separately within ten days after delivery of the trust disclosure document or another trust disclosure document that was received within one year before receipt of the latter trust disclosure document; or received more than ten days after the delivery of the trust disclosure document, but only if the limitation notice references the trust disclosure document and meets other conditions. S. 736.10089(5), F.S.

[36] S. 736.1008(4)(c), F.S.

[37] S. 736.1012, F.S.

[38] S. 736.10085, F.S.

[39] S. 736.0705, F.S.

[40] S. 736.0706, F.S.

[41] *Id.*

Trust Revocation or Termination

Trust Revocation

Unless a trust's terms expressly provide that a trust is irrevocable, the grantor may generally revoke the trust:

- By substantial compliance with a method for trust revocation provided in the trust's terms; or
- If the trust's terms do not provide such a method:
  - By a later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the trust's terms; or
  - Any other method manifesting clear and convincing evidence of the grantor's intent. [42]

Trust Termination

An irrevocable trust created after January 1, 2001, may terminate without court involvement upon the unanimous agreement of the trustee and all beneficiaries.[43] Alternatively, an irrevocable trust may terminate by court order upon the petition of the trustee or a beneficiary if:

- The trust's purposes have been fulfilled or have become illegal, impossible, wasteful, or impracticable to fulfill;
- Because of circumstances not anticipated by the settlor, compliance with the trust's terms would defeat or substantially impair the accomplishment of a material purpose of the trust; or
- A material purpose of the trust no longer exists.[44]

Further, an irrevocable trust may terminate:

- At the trustee's initiative and without court involvement if the value of the trust's assets falls below $50,000 and is insufficient to justify the cost of trust administration.[45]
- By court order if the trust was created or amended as the result of fraud, duress, mistake, or undue influence.[46]
- By operation of law if the trust's legal and equitable interests merge – that is, when the sole trustee becomes the sole beneficiary, absent a statutory exception.[47]

Trustee Discharge

Neither the trustee's resignation or removal, nor the trust's revocation or termination, alone discharges or affects the resigning trustee's liability for acts or omissions taken during the trusteeship; instead, a trustee generally remains liable for such acts or omissions unless and until the trustee is discharged from such liability. Under current law, a trustee may obtain such a discharge if the trust's beneficiaries waive the provision of a final trust accounting and provide the trustee with a liability release.[48] Where the beneficiaries do not waive the final trust accounting, however, a trustee must provide such accounting to the qualified beneficiaries and obtain from each a written approval thereof.[49] Alternatively, the trustee may file a lawsuit asking the court to approve the accounting, which lawsuit the trustee must initiate by filing a complaint with the accounting attached thereto and serving copies thereof on each beneficiary.[50]

Critics of the discharge procedure in current law allege that, in many instances, particularly in non-adversarial irrevocable trust administrations where the trustee substantially complied with the duty to inform and account

[42] S. 736.0602, F.S.
[43] S. 736.0412, F.S.
[44] S. 736.04113, F.S.
[45] S. 736.0414, F.S.
[46] S. 736.0406, F.S.
[47] *Axtell v. Coons*, 89 So. 419 (Fla. 1921).
[48] S.736.0813, F.S.
[49] *Id.*
[50] *Id.*

during his or her trusteeship, the costs to the trust (and ultimately to the beneficiaries) associated with obtaining a discharge absent a final accounting waiver and release outweigh the beneficiaries' need for a full, final accounting.[51] However, it is the trustee that often insists upon following these discharge procedures where the trustee does not receive a final accounting waiver and release in order to obtain as full and complete a discharge from liability as possible.[52]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Civil Justice & Claims Subcommittee	17 Y, 0 N	1/14/2026	Jones	Mawn
Insurance & Banking Subcommittee			Brackett	Veigle
Judiciary Committee				

[51] Real Property, Probate, and Trust Law Section of the Florida Bar, *White Paper: Statutory Settlement of Accounts and Discharge of Trustee* (Jan. 2026).
[52] *Id.*

A bill to be entitled

An act relating to trustee settlement and discharge; creating s. 736.10081, F.S.; authorizing a trustee to obtain a settlement of his or her accounts and be discharged under certain circumstances; requiring a trustee seeking settlement and discharge to send a trust disclosure document to specified persons; requiring that certain information be included in the trust disclosure document; requiring that the trust disclosure document and any objections be sent with a certain notice; providing applicability; providing that an objection need not state the grounds for the objection; providing that a trustee is discharged upon completion of distributions or transfers if no timely written objections are received and is discharged from all liability and claims arising out of any matter disclosed in the trust disclosure document; providing that a waiver of the right to object is treated as an expiration of the timeframe to object; providing construction; providing applicability; providing an effective date.

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

Section 1. Section 736.10081, Florida Statutes, is created

to read:

736.10081 Settlement and discharge of a trustee; disclosure; objections.—

(1) A trustee who is in substantial compliance with the duty to inform and account under s. 736.0813 may obtain a settlement of his or her accounts and be discharged pursuant to this section when either of the following occurs after 6 months after the trustee's acceptance:

(a) The trust terminates.

(b) A trustee resigns or is removed from the trust.

(2) A trustee seeking settlement and discharge pursuant to this section must send to the trust's qualified beneficiaries and any cotrustee, and the immediate successor trustee if the trust is not terminating, a trust disclosure document as defined in s. 736.1008(4) which contains all of the following:

(a) The name, mailing address, telephone number, and e-mail address of the trustee seeking discharge.

(b) A plan of distribution which includes all of the following:

1. A schedule of the assets reasonably anticipated to be disbursed or distributed by the trustee.

2. The amount of any debts, expenses, and taxes to be paid by the trustee.

3. Any reasonable reserve to be held by the trustee.

(c) If the trustee's duty to account has not been waived,

a trust accounting as defined in s. 736.1008(4) for the period for which an accounting has not been previously provided to the qualified beneficiaries of the trust.

(d) A statement that the trust has terminated or that the trustee has resigned or has been removed.

(e) A notice with substantially the following language in at least 12-point type:

"NOTICE: Any claim or cause of action you might have against the trustee arising from any matter disclosed in a trust disclosure document may be barred unless a written statement objecting is received by the trustee from you within 60 days after your receipt of this trust disclosure document and notice. If you have questions, please consult your attorney."

(3) The trustee shall also send the trust disclosure document described in subsection (2) to any other person who the trustee reasonably believes would be affected by the trust disclosure document. The trust disclosure document and any objections must be sent with the notice requirements of s. 736.0109, except that s. 736.0109(3) does not apply.

(4) This section does not apply if the trustee receives a written objection within 60 days after sending the trust disclosure document. An objection does not need to state the

grounds for the objection or be in any particular form.

(5) If the trustee does not receive a timely written objection, the trustee is discharged upon completion of all distributions or transfers in accordance with the plan of distribution and is discharged from all liability and claims arising from any matter adequately disclosed in the trust disclosure document, including any claim that the trustee failed to inform and account pursuant to s. 736.0813, with the same effect as if the court had entered a final order approving that act or omission.

(6) A waiver of the right to object pursuant to this section is treated as the expiration of the 60-day period without objection.

(7) This section is in addition to, and not a replacement of, rights of a trustee to otherwise settle the trustee's accounts.

Section 2. This act applies to all trusts that are irrevocable or become irrevocable on or after the effective date of this act.

Section 3. This act shall take effect upon becoming a law.

HB 1399

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 1399	**COMPANION BILL:** None
TITLE: Property Insurance Affiliates	**LINKED BILLS:** None
SPONSOR(S): Berfield	**RELATED BILLS:** None

Committee References

Insurance & Banking ➤ Commerce

SUMMARY

Effect of the Bill:
The bill increases regulatory oversight of financial transactions between property insurers and their affiliates. Specifically, the bill requires:

- Property insurers to submit documentation to the Office of Insurance Regulation (OIR) demonstrating that all payments to affiliates are fair and reasonable. The bill also provides factors for OIR to determine whether those transactions are fair and reasonable.
- OIR to review and approve dividends and pledges of capitals or assets from property insurers to their affiliates.
- All agreements between property insurers and their affiliates to include a termination clause and provides that they may not exceed three years without review and reapproval by OIR.
- Property insurers to notify OIR at least 30 days before pledging capital or assets to an affiliate, and OIR may prohibit those arrangements if not in the insurer's best interest.
- Affiliates of property insurers to register with OIR before doing business in the state.

The bill gives OIR the authority to:

- Require affiliates to refund improper transfers back to property insurers.
- Consider transactions between property insurers and affiliates as part of the rate review process.
- Impose penalties for violations of the bill.

Fiscal or Economic Impact:
The bill may have an indeterminate fiscal impact on state government and the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Affiliate Transactions

The bill creates a framework for the oversight of affiliates and their transactions with property insurers. (Section 1).

The bill defines the term "affiliate" as an entity that engages in the business of insurance that controls or is controlled by an insurer through ownership of voting securities, shared management, or participation in management. The definition also explicitly includes attorneys in fact and managing general agents (MGAs). (Sections 1, 2, and 3).

The bill requires property insurers to submit documentation to the Office of Insurance Regulation (OIR) demonstrating that all fees, commissions, or payments to affiliates are fair and reasonable. OIR must evaluate whether the transactions are fair and reasonable based on the following factors:

- the actual cost of each service being provided by the affiliate;

- the relative financial condition of the property insurer and the affiliate;
- the level of debt and how the debt is serviced;
- the amount of the dividends paid by the property insurer and the affiliate and for what purpose;
- whether the terms of the written contract benefit the property insurer and are in the best interest of the policyholders or subscribers; and
- any other information the office reasonably requires in making the determination. (Section 1).

The bill requires all contracts between property insurers and their affiliates to include a termination clause that automatically ends the contract after three years. The contract may be extended, subject to approval by OIR. (Section 1).

The bill grants OIR the authority to restrict fund transfers from all or specific property insurers to affiliates during a declared state of emergency. Any order restricting transfer of funds between property insurers and their affiliates may not exceed 60 days, but may be extended by OIR. (Section 1).

The bill provides that property insurers may not issue dividends to their affiliates without prior approval by OIR. Dividends must be fair and reasonable, and they may not be made for the purpose of manipulating the property insurer's financial position. Additionally, a property insurer may only issue dividends if it is solvent. (Section 2).

The bill requires property insurers to provide notice to OIR at least 30 days before a pledge of capital or assets to an affiliate for a loan or financial obligation. The bill grants OIR the authority to reject the pledge if not in the best interest of the financial condition of the property insurer. (Section 2).

Registration

The bill creates a registration process for property insurance affiliates. Before transacting the business of insurance in the state, an affiliate of a property insurer must register with OIR. As part of the application for registration, the affiliate must submit the following information and documents to OIR:

- a statement of duties the affiliate is expected to perform on behalf of the property insurer, and the lines of insurance for which the applicant is to be authorized to act;
- all basic organizational documents of the affiliate;
- the names, addresses, official positions, and professional qualifications of the individuals employed or retained by the affiliate who are responsible for managing the affairs of the property insurer;
- an independent background report detailing the involvement of the individuals employed or retained by the affiliate who are responsible for managing the affairs of the property insurer;
- a self-disclosure of any administrative, civil, or criminal complaints related to the insurance laws of any state. (Section 3).

Affiliates must renew the registration annually. OIR may not charge a fee for the registration or the renewal of the registration. (Section 3).

The bill provides grounds for denial of a registration, as well as revocation, suspension, or nonrenewal of a registration, as well as the imposition of fines of up to $10,000. These grounds include:

- any cause for which OIR would have denied the application for registration if the office had known about it;
- violation of any provision of the Florida Insurance Code;
- using the affiliate registration to circumvent any of the requirements or prohibitions of the Florida Insurance Code;
- any of the individuals who are responsible for managing the affairs of the affiliate being found guilty or pleading nolo contendere to a felony in this state or any other state relating to the business of insurance;
- knowingly employing an individual in a managerial capacity or in a capacity dealing with the public who is under an order of revocation by either OIR or the Department of Financial Services (DFS);
- engaging in unfair methods of competition or in unfair or deceptive acts or practices while conducting business under the affiliate registration;

- knowingly aiding, assisting, procuring, advising, or abetting any person in the violation of or in the attempt to violate a provision of the Florida Insurance Code or any order of OIR, DFS, or the Financial Services Commission (FSC);
- receiving a fee, commission, or other financial consideration or payment that violates the requirements of the bill;
- failing to renew the registration annually; and
- failing to refund to an insurer a fee, commission, or other financial consideration or payment as required by the bill. (Section 3).

The bill makes it a first degree misdemeanor to do business as an affiliate without a registration for the first offense. For a second or subsequent offense, acting as an affiliate without a registration is a third degree felony. (Section 3).

The registration requirement for affiliates of property insurers goes into effect on January 1, 2027. (Section 3).

Rate Review

The bill requires OIR to consider the profits, revenues, and investment income of any affiliate which are attributable to materially related to the insurer's business in this state as part of property insurers' rate filings. Additionally, OIR may deem a property insurer's filed rates excessive if they do not reflect the profits, revenues, and investment income of any affiliate which are attributable or materially related to the insurer's business in the state. (Section 4).

Enforcement Authority

The bill grants OIR the authority to impose penalties for violations of the bill's requirements, including administrative fines of up to $10,000 for each violation, as well as suspension or revocation of the insurer's license. Additionally, if OIR determines that a payment or dividend made by a property insurer to an affiliate is not fair and reasonable, the affiliate must refund the improper payment to the insurer. (Sections 1 and 2).

Except as otherwise provided, the bill provides an effective date of July 1, 2026. (Section 5).

RULEMAKING:

The bill requires OIR to adopt forms, processes, and rules necessary to implement OIR's oversight of transactions, dividends, and pledges of capital or assets between property insurers and their affiliates. (Sections 1 and 2). OIR is also granted rulemaking authority to adopt forms, processes, and rules for affiliates to obtain and renew their registration and for the regulation, investigation, and discipline of affiliates. (Section 3).

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:

There is an indeterminate fiscal impact to state government. To the extent that the bill requires OIR to oversee financial transactions between property insurers and their affiliates to ensure they are fair and reasonable, review contract renewals, proposed dividends, and process applications for registrations there may be an indeterminate fiscal impact to the office.

PRIVATE SECTOR:

There may be an indeterminate fiscal impact to property insurers, who have affiliates, to ensure compliance with the provisions of the bill.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Affiliates

Affiliates are defined in the Florida Insurance code as entities that exercise control over or are directly or indirectly controlled by the insurer through:[1]

- equity ownership of voting securities;
- common managerial control; or
  collusive participation by the management of the insurer and affiliate in the management of the insurer or the affiliate.

Payments to Affiliates

Each insurer doing business in Florida that pays a fee, commission, or other financial consideration or payment to any affiliate is required to provide, upon request, any information OIR deems necessary. The fee, commission, or other financial consideration or payment to any affiliate must be fair and reasonable.[2]

In determining whether the fee, commission, or other financial consideration or payment is fair and reasonable, current law does not dictate which factors OIR must consider and only explicitly lists the actual cost of the service being provided.[3]

Affiliate Fee Analysis Draft Report

In February of 2025, the *Tampa Bay Times* published a draft report commissioned by OIR analyzing fees paid by insurers to their affiliates during the 2017-2019 period.[4] The draft report claimed that while the 53 insurers assessed reported $61 million in net income, their affiliates reported $14 billion in income.[5]

The draft report included the following observations and recommendations: [6]

- Requiring all managing general agent (MGA) agreements to be reviewed and updated. This recommendation stemmed from some agreements being more than a decade old and not including the appropriate language to address data security, access, ownership, and control – particularly in the event of regulatory proceedings. Additionally, some of the reviewed contracts included premium-based compensation rates exceeding 25%, and the parties had not revisited or reviewed those provisions since the contracts were signed.
- Requiring insurers to provide documentation and financial projections that demonstrate that the proposed fees in the agreement are fair and reasonable to the insurer.
- The report flagged fee forgiveness and capital contributions and noted that while the MGA model in Florida is a common way for insurers to attract capital, it can also be used to circumvent insurer dividend requirements.
- The report noted that several insurers did not provide all the information necessary to assess whether fees paid to MGAs and other affiliates were reasonable, therefore it recommended to OIR conducting limited scope examinations to review these transactions.

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[1] S. 624.10(1), F.S.
[2] S. 624.424(13), F.S.
[3] *Id.*
[4] Lawrence Mower, *Florida Insurance Companies Steered Money to Investors while Claiming Losses, Study Says*, Tampa Bay Times, (Feb. 22, 2025), https://www.tampabay.com/news/florida-politics/2025/02/22/florida-insurance-profits-desantis-regulation-investors-crisis/ (last visited Jan. 9, 2026).
[5] Jan Moenck, *Affiliated Fee Analysis Executive Summary*, (Mar. 31, 2022), https://www.documentcloud.org/documents/25540452-affiliated-fee-analysis-executive-summary/ (last visited Jan. 9, 2026), at 4.
[6] *Id.* at 5-6.

The draft report used guidance from OIR rules in the Florida Administrative Code and from the National Association of Insurance Commissioners (NAIC) *Financial Analysis Handbook* to assess the fairness and reasonableness of fees paid by insurers to affiliates, but noted that Florida "does not have specific statutory guidance" defining the "fair and reasonable" standard for payments to affiliates.[7]

Managing General Agents (MGAs)

An MGA is a specialized type of insurance affiliate that has underwriting authority from an insurer.[8] MGAs can perform certain functions that insurers typically handle, including binding coverage, underwriting and pricing, agent appointments, and claims adjusting and settlement.[9] An MGA may be an affiliate of an insurer.

A currently effective producer license and an MGA appointment is required to perform MGA services.[10] Insurers are required to notify DFS and OIR in writing within 30 days of appointing or terminating an MGA.[11] This notice must include:[12]

- a statement of duties the MGA applicant is expected to perform for the insurer;
- the lines of insurance for which the MGA applicant will be authorized to act; and
- any other information DFS or OIR may request from the insurer.

Insurers are required to review their books and records quarterly to determine if any of their producers have become a managing general agent.[13]

OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[14] OIR's examination authority extends to MGAs.[15] As part of the examination process, all persons being examined must make available to OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[16]

As part of an examination, OIR reviews contracts between insurers and MGAs, so that it can determine how much an insurer is paying its MGA and what services the insurer is receiving for the fee it pays. The scope of the examination of an insurer's affiliates in a holding company system is limited to information reasonably necessary to ascertain an insurer's financial condition.

Attorneys in Fact

A reciprocal insurance exchange is an insurance enterprise where subscribers enter into direct agreements with each other, pledging to contribute proportionally to cover losses experienced by fellow members.[17] The customers, known as subscribers, sign an agreement authorizing an agent to act as their attorney in fact for the purpose of insurance.[18] The attorney in fact is usually a management company, and they are authorized to sign contracts on behalf of all subscribers.[19]

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[7] *Id*. at 1-2.
[8] S. 626.015(16)(a), F.S., *see also*, International Risk Management Institute, https://www.irmi.com/term/insurance-definitions/managinggeneral-agent (last visited Jan. 9, 2026).
[9] *See supra* note 2.
[10] S. 626.112(5), F.S.
[11] S. 626.7454(5), F.S.
[12] *Id*.
[13] S. 626.7454(6), F.S.
[14] S. 624.316(1)(a), F.S.
[15] *Id*. S. 626.7452, F.S.
[16] S. 624.318(2), F.S.
[17] Andrew Verstein, *Enterprise Without Entities*, 116 MICH. L. REV. 247, 249 (2017), https://repository.law.umich.edu/cgi/viewcontent.cgi?params=/context/mlr/article/1672/&path_info=Enterprise_Without_Entities_revised_first_page.pdf.
[18] *Id*. at 264.
[19] *Id*. at 251.

Office of Insurance Regulation

The Office of Insurance Regulation (OIR) regulates all activities relating to insurers and other risk bearing entities, including licensing, rates, policy forms, marked conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision.[20] OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each authorized insurer in the state.[21]

As part of that process, insurers must make available all records relating to the subject of the examination.[22] OIR is also authorized to carry out market conduct examinations to determine compliance with the Florida Insurance Code.[23]

BILL HISTORY

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

[20] S. 20.121(3)(a), F.S.
[21] S. 624.316(1)(a), F.S.
[22] S. 624.318(2), F.S.
[23] S. 624.3161, F.S.

A bill to be entitled

An act relating to property insurance affiliates; creating s. 624.44101, F.S.; providing applicability; defining the term "affiliate"; requiring certain property insurers to provide to the Office of Insurance Regulation documentation demonstrating that financial considerations and payments to affiliates are fair and reasonable; requiring the office to consider certain factors to determine whether such considerations and payments are fair and reasonable; requiring property insurers to submit, and the office to review, audited financial statements; requiring contracts between property insurers and affiliates to contain certain provisions; authorizing the office to issue orders restricting fund transfers from property insurers to affiliates under specified circumstances; providing penalties; requiring affiliates to make certain refunds under certain circumstances; requiring the office to adopt forms, processes, and rules; creating s. 624.44102, F.S.; providing applicability; providing a definition; providing authority of the office over affiliate dividends; providing restrictions on and prohibitions against dividends paid by property insurers to affiliates under certain circumstances; requiring property insurers to provide

notice before pledges of capital and assets to affiliates for loans and financial obligations; providing penalties; requiring affiliates to make certain refunds under certain circumstances; requiring the office to adopt forms, processes, and rules; creating s. 624.44103, F.S.; providing applicability; providing a definition; requiring affiliates to register with the office; specifying requirements to obtain registration; requiring annual renewal; providing administrative penalties; providing criminal penalties; requiring the office to adopt forms, processes, and rules; amending s. 627.062, F.S.; revising factors and standards for the office determination whether a property insurance rate filing is excessive; providing effective dates.

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

Section 1. Section 624.44101, Florida Statutes, is created to read:

624.44101 Oversight of affiliate transactions.—

(1) This section applies to insurers that issue property insurance policies and their affiliates.

(2)(a) As used in this section, the term "affiliate" means an entity that engages in the business of insurance and that

exercises control over or is directly or indirectly controlled by the insurer through:

1. Equity ownership of voting securities;

2. Common managerial control as defined in s. 624.10; or

3. Participation by the management of the insurer and the affiliate in the management of the insurer or the affiliate.

(b) The term also includes an attorney in fact as defined in s. 629.011 and a managing general agent as defined in s. 626.015.

(3)(a) Each property insurer doing business in this state which pays, directly or indirectly, a fee, commission, or other financial consideration or payment to any affiliate must provide to the office documentation demonstrating that such fee, commission, or other financial consideration or payment is fair and reasonable. The office must determine whether the fee, commission, or other financial consideration or payment is fair and reasonable by considering the following factors:

1. The actual cost of each service provided by the affiliate.

2. The relative financial condition of the property insurer and the affiliate.

3. The level of debt and how that debt is serviced.

4. The amount of the dividends paid by the property insurer and the affiliates and for what purpose.

5. Whether the terms of the written contract benefit the

property insurer and are in the best interest of the policyholders or subscribers.

6. Any other information as the office reasonably requires in making the determination.

(b) For any contract with an affiliate executed on or after July 1, 2026, the property insurer must annually provide audited financial statements to the office which demonstrate any fee, commission, or other financial consideration or payment from the property insurer to the affiliate is fair and reasonable. The office must review audited financial statements to determine if the fee, commission, or other financial consideration or payment to the affiliate is fair and reasonable.

(c) Any contract between a property insurer and an affiliate executed on or after July 1, 2026, must include a termination clause that automatically terminates the contract after 3 years. An agreement between a property insurer and an affiliate may include provisions for extension, but such extension must be approved by the office before becoming effective. Any extension may not remain in effect for longer than 3 years without a review pursuant to paragraph (a) and approval by the office. If the agreement provides for extension, the agreement must clearly state that the extension is subject to approval by the office at least every 3 years.

(4)(a) During a state of emergency declared by the

Governor pursuant to chapter 252, the office may issue orders restricting fund transfers from a property insurer to an affiliate.

(b) Orders under paragraph (a) may apply to all or specified property insurers and may not exceed 60 days unless extended by the office.

(5) The office may impose penalties on a property insurer for violations of this section, including administrative fines of up to $10,000 for each violation, as well as suspension or revocation of the property insurer's license or authority to do business in this state.

(6) In addition to any penalties imposed by the office under subsection (5), the affiliate must refund the property insurer any fee, commission, or other financial consideration or payment that is determined by the office not to be fair and reasonable.

(7) The office shall adopt forms, processes, and rules necessary to implement this section.

Section 2. Section 624.44102, Florida Statutes, is created to read:

624.44102 Authority over affiliate dividends and loans.—

(1) This section applies to insurers that issue property insurance policies and their affiliates.

(2) As used in this section, the term "affiliate" has the same meaning as in s. 624.44101(2).

(3) The office has oversight and regulatory authority over the issuance of dividends paid to an affiliate.

(4) There may be no declaration or distribution of dividends paid to an affiliate without prior approval of the office. The office shall make a determination within 7 days after a property insurer submits all documents required by the office.

(5) Dividends may not be made for the purpose of manipulating the property insurer's financial position, and they may be made only if the property insurer is solvent.

(6) Dividends must be fair and reasonable as determined by the office in accordance with s. 624.44101(3)(a).

(7) A property insurer must provide notice to the office at least 30 days before a pledge of capital or assets to any affiliate for a loan or financial obligation. Such notice must include a description of the collateral, the nature of the obligation, and the parties involved. The office may reject and prohibit the pledge if the office determines that such financial arrangement is not in the best interest of the financial condition of the property insurer.

(8) The office may impose penalties on a property insurer for any unauthorized dividend, distribution, or pledge of capital or assets, including administrative fines of up to $10,000 for each violation, as well as suspension or revocation of the property insurer's license or authority to do business in

this state.

(9) In addition to any penalties imposed by the office under subsection (8), the affiliate must refund the property insurer any payment that is determined by the office to violate this section.

(10) The office shall adopt forms, processes, and rules necessary to approve dividends and pledges of capital or assets from property insurers to affiliates.

Section 3. Effective January 1, 2027, section 624.44103, Florida Statutes, is created to read:

624.44103 Affiliate registration.—

(1) This section applies to insurers that issue property insurance policies and their affiliates.

(2) As used in this section, the term "affiliate" has the same meaning as in s. 624.44101(2).

(3) Before doing business in this state, an affiliate must obtain registration from the office.

(4) To obtain registration, the affiliate must file with the office an application for registration upon a form to be adopted by the commission and furnished by the office. The office may not require an applicant to pay a fee for the registration or for filing an application for such registration. The application must include the following information and documents:

(a) A statement of duties the applicant is expected to

perform on behalf of the property insurer, and the lines of insurance for which the applicant is to be authorized to act.

(b) All basic organizational documents of the affiliate, such as the articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, or other applicable documents, and all amendments to those documents.

(c) The names, addresses, official positions, and professional qualifications of the individuals employed or retained by the affiliate who are responsible for the conduct of the affairs of the affiliate, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, and the principal officers in the case of a corporation or the partners or members in the case of a partnership or association of the affiliate.

(d) An independent background report as prescribed by the office detailing the involvement of the individuals employed or retained by the affiliate who are responsible for the conduct of the affairs of the affiliate, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, and the principal officers in the case of a corporation or the partners or members in the case of a partnership or association of the affiliate.

(e) A self-disclosure of any administrative, civil, or criminal complaints, settlements, or discipline of the affiliate

which relate to a violation of the insurance code or the insurance laws of any other state.

(5) Affiliate registrations must be renewed annually. The office may not require an affiliate to pay a fee for the renewal or pay a fee to file an application for such renewal.

(6) The office may, in its discretion, deny an application for, suspend, revoke, or refuse to renew an affiliate's registration; impose an administrative fine of up to $10,000 against an affiliate; and suspend or revoke the eligibility of an affiliate for registration, if the office finds any of the following applicable grounds:

(a) Any cause for which issuance of the registration could have been refused had it then existed and been known to the office.

(b) Violation of any provision of the insurance code or any other law applicable to the business of insurance in the course of doing business as an affiliate in this state.

(c) The registration is used, or to be used, to circumvent any of the requirements or prohibitions of the insurance code.

(d) Any of the individuals employed or retained by the affiliate who are responsible for the conduct of the affairs of the affiliate have been found guilty of, or having pleaded guilty or nolo contendere to, a felony in this state or any other state relating to the business of insurance or an insurance agency, without regard to whether a judgment of

conviction has been entered by the court having jurisdiction of such cases.

(e) Knowingly employing any individual in a managerial capacity or in a capacity dealing with the public who is under an order of revocation by the office or the department.

(f) In the conduct of business under the registration, engaging in unfair methods of competition or in unfair or deceptive acts or practices, prohibited under part IX of chapter 626.

(g) Knowingly aiding, assisting, procuring, advising, or abetting any person in the violation of or in the attempt to violate a provision of the insurance code or any other order or rule of the department, commission, or office.

(h) Receiving a fee, commission, or other financial consideration or payment that violates the requirements of s. 624.44101 or s. 624.44102.

(i) Receiving any dividend or pledges of capital assets for a loan or financial obligation in violation of s. 624.44101 or s. 624.44102.

(j) Failing to annually renew a registration.

(k) Failing to refund a fee, commission, or other financial consideration or payment to a property insurer under s. 624.44101(6) or s. 624.44102(9).

(7) A person who does business as an affiliate in this state without a current registration from the office commits a

misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for the first offense, and, for a second or subsequent offense, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The office shall adopt forms, processes, and rules necessary for affiliates to obtain and renew their registration and for the regulation, investigation, and discipline of affiliates.

Section 4. Paragraphs (b) and (e) of subsection (2) of section 627.062, Florida Statutes, are amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(b) Upon receiving a rate filing, the office shall review the filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

3. The degree of competition among insurers for the risk insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other

expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules using reasonable techniques of actuarial science and economics to specify the manner in which insurers calculate investment income attributable to classes of insurance written in this state and the manner in which investment income is used to calculate insurance rates. Such manner must contemplate allowances for an underwriting profit factor and full consideration of investment income that produces a reasonable rate of return; however, investment income from invested surplus may not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to policyholders, members, or subscribers in this state.

7. The adequacy of loss reserves.

8. The cost of reinsurance. The office may not disapprove a rate as excessive solely due to the insurer having obtained catastrophic reinsurance to cover the insurer's estimated 250-year probable maximum loss or any lower level of loss.

9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

11. Projected hurricane losses, if applicable, which must

be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in s. 627.0628.

12. Projected flood losses for personal residential property insurance, if applicable, which may be estimated using a model or method, or a straight average of model results or output ranges, independently found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology and as further provided in s. 627.0628.

13. A reasonable margin for underwriting profit and contingencies.

14. The cost of medical services, if applicable.

15. For property insurance filings, the profits, revenues, and investment income of any affiliate, as defined in s. 624.44101(2), which are attributable or materially related to the insurer's business in this state.

16.~~15.~~ Other relevant factors that affect the frequency or severity of claims or expenses.

(e) After consideration of the rate factors provided in paragraphs (b), (c), and (d), the office may find a rate to be excessive, inadequate, or unfairly discriminatory based upon the following standards:

1. Rates shall be deemed excessive if they are likely to produce a profit from Florida business which is unreasonably high in relation to the risk involved in the class of business

or if expenses are unreasonably high in relation to services rendered.

2. Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, if the replenishment is attributable to investment losses.

3. For property insurance filings, rates may be deemed excessive if they do not reflect the profits, revenues, and investment income of any affiliate, as defined in s. 624.44101(2), which are attributable or materially related to the insurer's business in this state.

4.~~3.~~ Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

5.~~4.~~ A rating plan, including discounts, credits, or surcharges, shall be deemed unfairly discriminatory if it fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program adopted pursuant to s. 627.0625.

6.~~5.~~ A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

7.~~6.~~ A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

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

Section 5. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2026.