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# **Government Operations Appropriations Subcommittee Meeting Packet**

**February 16, 2016  
9:30 a.m. – 11:30 a.m.  
Morris Hall**



## **AGENDA**

Government Operations Appropriations Subcommittee  
February 16, 2016  
9:30 a.m. – 11:30 a.m.  
Morris Hall

### **I. Call to Order/Roll Call**

### **II. Consideration of Bills**

CS/HB 783 Unclaimed Property by Insurance & Banking Subcommittee,  
Trumbull

CS/HB 879 Organization of the Department of Financial Services by  
Insurance & Banking Subcommittee, Renner

CS/HB 1163 Insurer Regulatory Reporting by Insurance & Banking  
Subcommittee, Hager

HB 1187 Regulated Professions and Occupations by Grant

CS/HB 1195 Technology by Government Operations Subcommittee,  
Grant

CS/HB 1327 Limited Sinkhole Coverage Insurance by Insurance &  
Banking Subcommittee, Ingoglia

HB 7105 Credit for Relevant Military Service by Veteran & Military Affairs  
Subcommittee, Smith

### **III. Closing Remarks/Adjourn**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 783 Unclaimed Property  
**SPONSOR(S):** Insurance & Banking Subcommittee; Trumbull  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 970

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	10 Y, 1 N, As CS	Lloyd	Luczynski
2) Government Operations Appropriations Subcommittee		Keith 	Topp 
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

Unclaimed property consists of any funds or other property, including insurance proceeds, that remains unclaimed by the owner for a certain period of time. The Florida Disposition of Unclaimed Property Act requires holders of unclaimed property to exercise due diligence to locate owners and pay them the funds. If the owner cannot be located, the holder must report and remit the unclaimed property to the Department of Financial Services (DFS) Bureau of Unclaimed Property. The bill makes the following changes to the Act:

- Revises certain definitions and adds one for the term "United States";
- Increases the maximum value defining claims related to small estates from \$5,000 to \$10,000;
- Requires the filing of certain court documents, in certain circumstances;
- Authorizes the DFS to estimate property value if the holder fails to produce sufficient records to do so;
- Eliminates the conditional \$1,000 cap on fees and costs applicable to property claimed under a power of attorney and the conditional \$1,000 limit on the discount allowed in purchase agreements;
- Eliminates an exception that removes a fee cap and disclosure requirement, in the case of a claim made under a power of attorney, or the \$1,000 discount limit (but not the disclosure requirement) in the case of a claim for a property right obtained under a purchase agreement;
- Deletes authority to remove certain language otherwise required in grants of limited power of attorney and purchase agreements;
- Limits certain authorizations or agreements associated with grants of a limited power of attorney or purchase agreements and requires denial of claims, if compensation is inconsistent with statute;
- Increases the number of days allowed for a purchaser to pay a property right seller from 10 days to 30 days; requires the filing of proof of completed payment; and, voids the claim, if the required proof is not filed with the DFS;
- Repeals the 45 day waiting period for claims made under a power of attorney or purchase agreement and preserves certain statements of legislative intent;
- Establishes registration and renewal fees for representatives and purchasers of property claims and, by operation of law, suspends the transactional rights of registrants who fail to pay their renewal fee; and
- Removes the authorization for registrants to receive social security numbers.

Current law requires candidates for public office to dispose of the funds in their campaign account within 90 days of the end of their candidacy. They are allowed to deposit refund checks to be disposed of consistent with law. However, the law does not specify how to dispose of funds that come in by other means after the disposition of the account. The bill requires that unclaimed campaign account property be reported to the Chief Financial Officer and deposited into the State School Fund.

The bill has an insignificant, yet indeterminate positive fiscal impact on revenues deposited into the Unclaimed Property Trust Fund within the DFS and the State School Fund within the Department of Education. Specifically, the bill establishes a registration fee of \$500 and a renewal fee of \$250 for representatives and purchasers of property claims. The bill appears to have no effect on local government or state expenditures.

The bill is effective July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0783b.GOAS.DOCX

DATE: 2/4/2016

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Unclaimed Property**

Unclaimed property constitutes any funds or other property, tangible or intangible, that has remained unclaimed by the owner for more than five years. Unclaimed property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.<sup>1</sup>

In 1987, Florida adopted the Uniform Unclaimed Property Act<sup>2</sup> by enacting the Florida Disposition of Unclaimed Property Act (ch. 717, F.S., "the Act").<sup>3</sup> The Act serves to protect the interests of missing owners of property, while the state derives a benefit from the unclaimed and abandoned property until the property is claimed, if ever. Under the Act, the Department of Financial Services, Bureau of Unclaimed Property (DFS) is responsible for receiving property, attempting to locate the rightful owners, and returning the property or proceeds to them. There is no statute of limitations in the Act. Citizens may claim their property at any time and at no cost.

Generally, all intangible property, including any income less any lawful charges, which is held in the ordinary course of the holder's business, is presumed to be unclaimed when the owner fails to claim the property for more than five years after the property becomes payable or distributable, unless otherwise provided in the Act.<sup>4</sup> Holders of unclaimed property (which typically include banks and insurance companies) of \$50 or more are required to use due diligence to locate and notify apparent owners of inactive accounts, at least 60 days but not more than 120 days prior to filing a report with the DFS.<sup>5</sup> If the owners cannot be located, holders must file an annual report with the DFS for all property, valued at \$50 or more, that is presumed unclaimed for the preceding year.<sup>6</sup> The report must contain certain identifying information, such as the apparent owner's name, social security number or federal employer identification number, and last known address of apparent owners.<sup>7</sup> The holder must deliver all reportable unclaimed property to the DFS when it submits its annual report.<sup>8</sup>

Upon the payment or delivery of unclaimed property to the DFS, the state assumes custody and responsibility for the safekeeping of the property.<sup>9</sup> The original property owner retains the right to recover the proceeds of the property, and any person claiming an interest in the property delivered to the DFS may file a claim for the property, subject to certain requirements.<sup>10</sup> The DFS is required to

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<sup>1</sup> ss. 717.104 – 717.116, F.S.

<sup>2</sup> UNIFORM LAW COMMISSION, *Unclaimed Property Act (1952)(1981)*, [http://www.uniformlaws.org/Act.aspx?title=Unclaimed Property Act \(1952\)\(1981\)](http://www.uniformlaws.org/Act.aspx?title=Unclaimed%20Property%20Act) (last visited Jan. 29, 2016).

<sup>3</sup> Ch. 87-105, Laws of Fla. See also UNIFORM LAW COMMISSION, *Unclaimed Property Act Summary*, <http://www.uniformlaws.org/ActSummary.aspx?title=Unclaimed%20Property%20Act> (last visited Jan. 26, 2016).

<sup>4</sup> s. 717.102(1), F.S.

<sup>5</sup> s. 717.117(4), F.S.

<sup>6</sup> s. 717.117, F.S.

<sup>7</sup> For unclaimed funds owing under any life or endowment insurance policy or annuity contract, the report must also include the last known address of the insured or annuitant and of the beneficiary according to records of the insurance company holding or owing the funds. s. 717.117(1)(b), F.S.

<sup>8</sup> s. 717.119, F.S.

<sup>9</sup> s. 717.1201, F.S. Like many other states' unclaimed property acts, the Act is based on the common-law doctrine of escheat and is a "custody" statute, rather than a "title" statute, in that the DFS does not take title to abandoned property, but instead obtains its custody and beneficial use pending identification of the property owner.

<sup>10</sup> ss. 717.117 and 717.124, F.S.

make a determination on a claim within 90 days. If a claim is determined in favor of the claimant, the DFS is to deliver or pay over to the claimant the property or the amount the DFS actually received or the proceeds, if it has been sold by the DFS.<sup>11</sup>

If the property remains unclaimed, all proceeds from abandoned property are then deposited by the DFS into the Unclaimed Property Trust Fund.<sup>12</sup> The DFS is allowed to retain up to \$15 million to make prompt payment on verified claims and to cover costs incurred by the DFS in administering and enforcing the Act. All remaining funds received must be deposited into the State School Fund to be utilized for public education.<sup>13</sup>

Claims for recovery of unclaimed property held by the DFS under the Act may be filed by or on behalf of any person with an interest in the property.<sup>14</sup> While the Act provides the opportunity for anyone to recover the full value of their property at no cost, provision is made for claimants to designate someone who may perfect the claim for them. The claimant may designate and empower a representative to pursue their claim by executing a power of attorney agreement. Or, the claimant may sell their right to the property to certain individuals that are registered with the DFS for this purpose.<sup>15</sup> In either case, the transaction is subject to a fee limitation, unless a disclosure statement is provided to the claimant, in the form and with the content specified in the Act. The fee limitations are:

For representatives operating under a power of attorney:<sup>16</sup>

- 20 percent of the value of the property, not to exceed \$1,000;
- However, the fee limitation does not apply if the representative must initiate probate proceedings for an estate that has never been probated before or if the claimant is outside of the United States.

For purchasers obtaining rights under a purchase agreement:<sup>17</sup>

- 20 percent discount off of the value of the property, not to exceed a discount of \$1,000;
- However, the \$1,000 discount limitation does not apply if the representative must initiate probate proceedings for an estate that has never been probated before, if the claimant is outside of the United States or is not a natural person, such as a business or similar entity.

The Act also prescribes the form and content of the purchase agreement that transfers the right of the claimant to another person and the document granting the power of attorney. Additionally,

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<sup>11</sup> s. 717.124, F.S.

<sup>12</sup> s. 717.123, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> s. 717.124, F.S.

<sup>15</sup> Only a Florida licensed attorney, certified public accountant, private investigator or an employee of private investigator, or an employer of the private investigator if the employer holds a Class "A" license under ch. 493, F.S., may execute such purchase agreements. s. 717.1351, F.S. Additionally, the purchaser must be registered with the DFS. The DFS reports that there are currently 246 registrants under this provision. Florida Department of Financial Services, Agency Analysis of 2016 HB 1327, p. 3 (Dec. 14, 2015).

<sup>16</sup> s. 717.135, F.S., requires the disclosure that the property is held by the DFS pursuant to the Act, the mailing and Internet addresses of the DFS, the person or name of the entity that held the property prior to the property becoming unclaimed, the date of the holder's last contact with the owner, if known, and the approximate value of the property, and the categories of unclaimed property the claimant's representative is seeking to recover. The categories of unclaimed property are: cash accounts; stale dated checks; life insurance or annuity contract assets; utility deposits; securities or other interests in business associations; wages; accounts receivable; and contents of safe-deposit boxes.

<sup>17</sup> s. 717.1351, F.S. The content of the disclosure statement has the same elements as the disclosure described in s. 717.135, F.S., related to powers of attorney. However, the fee limitation does not apply if the representative must initiate probate proceedings for an estate that has never been probated, if the claimant is outside of the United States or is not a natural person, such as a business or similar entity.

s. 717.1351(4), F.S., requires that the purchaser pay the property seller within 10 days of execution to the purchase agreement and proof of payment by check must be filed with the DFS.

The DFS reports that some property owners are presented with an initial authorization or agreement for representation that provides for a fee that exceeds the 20 percent cap, but does not include the disclosure required by law to allow the higher fee. After having secured a relationship with the claimant, the representative subsequently executes a fully compliant power of attorney or purchase agreement that includes the specified disclosure that would otherwise validate a fee greater than 20 percent. Then, only the compliant documents are filed with DFS to support the claim. The DFS, unaware of these events, disburses the funds on the "perfected" claim. The representative holds the owner to the unlawfully high fee, in the case of a power of attorney, or obtains a higher percentage of the property value than they would otherwise be entitled, in the case of a purchase agreement.<sup>18</sup>

Since the public policy of the state is to provide the DFS with the first opportunity to locate the owner of the unclaimed property and for the owner to receive the full value of their property,<sup>19</sup> there are limitations on claiming by others through powers of attorney and purchase agreements. Powers of attorney and purchase agreements that are executed less than 45 days after the property is received by the DFS and that relate to accounts over \$250 in value are void under the Act.<sup>20</sup> The 45 day limit on such claims provides the DFS the opportunity to attempt to locate the property's owner. However, placing time and value limits on claim eligibility requires the DFS to track accounts and audit claims to identify the amount and timing of the claims. The DFS reports that this is inefficient and the public purpose can be served through other provisions of the Act. The DFS recommends repealing s. 717.1381, F.S., to eliminate administrative inefficiency.<sup>21</sup>

### **Effect of the Bill**

The bill revises the definitions of "business association," "domicile," and "insurance company" to simplify their text and improve understandability. Limited liability companies are specifically included in the definition of "business association." A definition of "United States" is created to specify the meaning of that term, which is currently used throughout the Act to determine various rights and conditions.

Generally, a claim for property related to the estate of a deceased person must be accompanied by an order from a probate court. However, there are documentary exceptions for estates with an aggregate value of \$5,000 or less and no probate proceeding is pending.<sup>22</sup> The bill increases the maximum threshold value of this small estate provision from \$5,000 to \$10,000.

Section 717.1262, F.S., requires that a claimant whose right to property is based on a court document must file a certified copy of the relevant court document with the DFS. The bill expands this requirement to include all pleadings filed with the court to establish the property right that were filed within 180 days preceding the signing of the claim form.

The holder of unclaimed property is obligated to report the value of property to the DFS. If the holder's records are insufficient to permit preparation of the required report, the value of the property may be estimated by the DFS. However, there is no authority for the DFS to estimate the value of the property when the holder fails to produce the record. The bill authorizes the estimation to occur if the holder fails to produce records following a request by the DFS.

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<sup>18</sup> Email from Walter Graham, Bureau Chief, Florida Department of Financial Services, Bureau of Unclaimed Property, Re: HB 783 (Feb. 3, 2016). The DFS reports that the impermissibly high fees charged under this dual authorization arrangement has ranged from averages of 30%-35% to as high as 60%.

<sup>19</sup> ss. 717.118 and 717.1381, F.S.

<sup>20</sup> s. 717.1381, F.S.

<sup>21</sup> Florida Department of Financial Services, Agency Analysis of 2016 HB 783, p. 3 (Dec. 14, 2015) and email from Elizabeth Boyd, Director of Legislative Affairs, Department of Financial Services, Re: 45 Day issue from HB 783 (Jan. 27, 2016).

<sup>22</sup> s. 717.1243, F.S.

The bill eliminates the \$1,000 cap on fees and costs applicable to property claimed through a representative under a power of attorney and the \$1,000 limit on the discount allowed in purchase agreements. Since these caps limit the application of the primary fee limitation, which is 20 percent of the value of the property recovered under a power of attorney or a 20 percent discount on the purchase of the property right, the \$1,000 limitation is only triggered when value of the property exceeds \$5,000 (i.e.,  $\$5,000 \times 0.20 = \$1,000$ ). Currently, there is no fee cap if the specified disclosure statement is provided to the claimant. The bill increases the cap on fees and costs to the current 20 percent standard on property valued over \$5,000 where the specified disclosure is not made to the claimant.

The bill also eliminates the exception that removes the fee cap and disclosure requirement, in the case of a claim made under a power of attorney, or the \$1,000 discount limit (but not the disclosure requirement) in the case of a claim for a property right obtained under a purchase agreement. The exception applies when probate proceedings must be initiated on behalf of the claimant regarding an estate that has never been probated or if the claim is being made under the right of a person outside the United States or, in the case of a purchase agreement, the seller is not a natural person.

Currently, grants of limited power of attorney and purchase agreements are required to specify the percent of the property to be paid to the purchaser on a discrete line item in a grant or agreement pursuant to the form and content requirements of the Act. However, this line may be deleted if the purchaser is paid a flat fee instead of a percentage of the recovery. The bill eliminates this exception and requires every grant of limited power of attorney or purchase agreement to include the required text regarding the percent of the property to be paid to the purchaser and the insertion of the appropriate percentage figure, which varies depending upon the amount of the flat fee and the value of the property to be recovered.

The bill requires any authorization or agreement for the recovery of property to be personally signed and dated by the claimant. The date of the authorization or agreement cannot precede the date on the grant of limited power of attorney or purchase agreement. The effect is to have a compliant power of attorney or purchase agreement be the first agreement in the case. This facilitates getting the disclosure, if one is going to be used to remove the fee cap, in front of the claimant during the first step in the claims process. It is meant to address the problem of claimants being presented and obligated to noncompliant authorizations or agreements, only to later execute a compliant agreement, which misrepresents the factual circumstances of the representation and the lawfulness of the fee to the DFS.

The bill requires a copy of such authorizations or agreements to be filed with the DFS along with the other required documents. Additionally, the bill requires the DFS to deny any claim where the representative under an authorization or agreement refuses to reduce its fee to the maximum allowed by law, i.e., 20 percent of the value of the property, if the disclosure was required but not provided to the claimant timely. Taken together, the provisions of the bill creating ss. 717.135(5) and 717.1351(8), F.S., would allow the fee cap to be lifted when the specified disclosure is made at the time of the first engagement of services. Failure to do so limits fees to 20 percent of the value of the property or requires the DFS denial of the claim.

The bill repeals s. 717.1381, F.S., including the statements of legislative intent located there. The bill retains the portion of legislative intent regarding the right of the claimant to recover their property without charge by moving it to s. 717.139, F.S. However, it does not preserve the legislative intent statement regarding the obligation of the DFS to make a meaningful attempt to locate the claimant. The substantive portions of s. 171.1381, F.S., are also repealed. This eliminates the 45 day waiting period for claims over \$250 in value that are handled by a representative or purchaser. The DFS reports that they will be able to maintain a waiting period using their authority under s. 717.117(3), F.S., and that their administrative efficiency will be improved by not having to audit claim filings for the timing of agreements and value of the claim for compliance with the repealed limitation.<sup>23</sup>

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<sup>23</sup> Florida Department of Financial Services, Agency Analysis of 2016 HB 783, p. 3 (Dec. 14, 2015) and email from Elizabeth Boyd, Director of Legislative Affairs, Department of Financial Services, Re: 45 Day issue from HB 783 (Jan. 27, 2016).  
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DATE: 2/4/2016

Individuals who register with the DFS as a potential purchaser under the Act are permitted to receive the social security numbers of apparent owners of property reported to the DFS. This is in addition to other information related to the unclaimed property. The bill deletes the authorization for registrants to receive social security numbers. Currently, there is no fee for registering with the DFS under the Act. The bill establishes a \$500 registration fee and an annual \$250 renewal fee. The registration fee is due upon application or reapplication following a lapse of registration. The renewal fee is due July 1<sup>st</sup> each year, with reapplication being required if the renewal fee is not paid by December 31<sup>st</sup>. Registrants who fail to pay their registration renewal fee lose their privileges until the fee is paid.

## **Current Situation**

### **Unclaimed Campaign Funds**

Section 106.141, F.S., requires candidates for public office to dispose of the funds in their campaign account within 90 days of the date that their candidacy ended.<sup>24</sup> Paragraph 106.141(4)(a), F.S., specifies a variety of options for the disposal of surplus campaign funds. With certain exceptions, they may take any combination of the following actions when disposing of the surplus:

- Return, pro rata to each contributor, the funds that have not been spent or obligated;
- Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code;
- Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member; or
- Give the funds that have not been spent or obligated:
  - In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
  - In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

If the candidate accepted contributions under the Florida Election Campaign Financing Act, the surplus funds must be returned to the General Revenue Fund, after satisfying certain monetary obligations. If the candidate takes office, they may transfer a limited amount of the funds to their office account.

Violations of the campaign finance law are subject to criminal penalties, both misdemeanors and felonies. Failure to properly dispose of surplus campaign funds is a first degree misdemeanor punishable by up to a year in jail and/or a fine of \$1,000. Candidates are prohibited from accepting campaign contributions following the end of their candidacy. They are allowed to receive and deposit refund checks to be disposed of consistent with the requirements of law, as described above. However, the law does not specify how to dispose of cash (or other property), received in forms other than a check, that would otherwise go into the campaign account but comes into the possession of the former candidate after the end of their candidacy and the disposition of the campaign account.

## **Effect of the Bill**

The bill provides that if unclaimed property is owned by the campaign account of a candidate for public office, following a report of the property to the DFS, the property shall be deposited into the State School Fund via the Chief Financial Officer.

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<sup>24</sup> The triggers for disposition are when the candidate withdraws their candidacy, becomes an unopposed candidate, is eliminated, or is elected. s. 106.141(1), F.S.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 717.101, F.S., relating to definitions applicable to the Florida Disposition of Unclaimed Property Act.

**Section 2:** Creates s. 717.1235, F.S., relating to unclaimed campaign funds of candidates for public office.

**Section 3:** Amends s. 717.1243, F.S., relating to small estate accounts.

**Section 4:** Amends s. 717.1262, F.S., relating to court documents.

**Section 5:** Amends s. 717.1333, F.S., relating to evidence; estimations; audit reports, examiner's worksheets, investigative reports, other related documents.

**Section 6:** Amends s. 717.135, F.S., relating to power of attorney to recover reported property in the custody of the department.

**Section 7:** Creates s. 717.1351, F.S., relating to acquisition of unclaimed property.

**Section 8:** Repeals s. 717.1381, F.S., relating to void unclaimed property powers of attorney and purchase agreements.

**Section 9:** Amends s. 717.139, F.S., relating to uniformity of application and construction.

**Section 10:** Amends s. 717.1400, F.S., relating to registration.

**Section 11:** Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill has an insignificant, yet indeterminate positive fiscal impact on revenues deposited into the Unclaimed Property Trust Fund (UPTF) within the DFS. Specifically, the bill establishes a registration fee of \$500 and a renewal fee of \$250 for representatives and purchasers of property claims. The amount of registrants is unknown at this time, but the DFS estimates the amount to be minimal.<sup>25</sup> Under current law, the DFS is allowed to retain up to \$15 million to make prompt payment on verified claims and to cover costs incurred by the DFS in administering and enforcing the Act.<sup>26</sup>

In addition, there is likely an indeterminate, yet positive impact to the State School Fund within the Department of Education, as all remaining funds received above the \$15 million cap on the UPTF must be deposited into the State School Fund to be utilized for public education.<sup>27</sup>

#### 2. Expenditures:

None.

<sup>25</sup> Florida Department of Financial Services, Agency Analysis of 2016 HB 783, p. 3 (Dec. 14, 2015)

<sup>26</sup> s. 717.123, F.S.

<sup>27</sup> *Id.*

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill has an indeterminate negative impact on the private sector because it creates new registration and renewal fees and, under certain circumstances, eliminates a current limit on fees that third parties may collect for assisting in the recovery of unclaimed property. In addition, the bill has an indeterminate positive effect on the private sector by allowing more small estates to benefit from simpler claim filing requirements, increasing the informational content on certain disclosures, establishing new authority to deny or void claims with excessive compensation, and allowing the streamlining of claim processing by the DFS.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill repeals s. 717.1381, F.S., which contains certain legislative intent language regarding the right of the claimant to recover their property without charge and the obligation of the DFS to make a meaningful attempt to locate the claimant. The bill retains a portion of this language by relocating it to s. 717.139, F.S. However, the portion that speaks to the obligation of the DFS to make a meaningful attempt to locate the claimant has not been restored to statute. Deleting this language may be inconsistent with the intent of the bill.

On lines 183–185 and 230–233, the bill authorizes DFS to deny claims if the compensation for the representative or purchaser under certain authorizations or agreements exceeds the 20 percent fee cap and the statutory disclosure requirements were not properly complied with. However, the 20 percent fee cap is inapplicable under current law when a compliant disclosure is presented to and signed by a claimant. It is unclear when the fee cap can be lifted under the provisions of the bill. Additionally, the provisions could be interpreted to allow multiple fees, which in the aggregate might exceed the 20

percent cap. An amendment would facilitate the correct application of law, avoid conflict, and achieve the intent of the bill. This could be accomplished by providing an exception to the stated provisions to specify the effect of the disclosure, when disclosure must occur, if used, and limit total fees related to a particular claim to the current 20 percent cap, absent proper timely disclosure.

On line 378, the term "registrant" is used regarding the payment of a fee upon application to register. The context indicates that the term "registrant" should be replaced with the term "applicant."

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 1, 2016, the Insurance & Banking Subcommittee considered the bill, adopted a strike-all amendment, and reported the bill favorably with a committee substitute. The amendment made the following revisions to the bill:

- Removed section 1 of the bill relating to "surplus trustees";
- Requires each court pleading filed within 180 days prior to a claim for unclaimed property to be filed with the Department of Financial Services;
- Requires identification of the percent of the recovery to be paid to the representative in all claims involving a grant of limited power of attorney, regardless of whether a flat fee payment is made;
- Requires all authorizations or agreements for representation regarding a claim for unclaimed property to meet specified requirements regarding accurate and personal completion by the claimant;
- Authorizes DFS to deny the claim for exceeding the fee cap on the representative's or purchaser's compensation;
- Increases the maximum number of days for a claimant to be paid following a purchase agreement from 10 days to 30 days from the date of execution and voiding the claim if proof of payment is not filed with the DFS;
- Restores a statement of legislative intent;
- Removes the section of the bill that expressed intent to apply a portion of the bill retroactively; and
- Certain other technical, grammatical or clarifying revisions.

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

1                                   A bill to be entitled  
2           An act relating to unclaimed property; amending s.  
3           717.101, F.S.; revising and providing definitions;  
4           creating s. 717.1235, F.S.; requiring certain  
5           unclaimed funds to be deposited with the Chief  
6           Financial Officer for certain purposes; amending s.  
7           717.1243, F.S.; revising the aggregate value that  
8           constitutes a small estate account; amending s.  
9           717.1262, F.S.; requiring a copy of certain pleadings  
10          to be filed with the Department of Financial Services;  
11          amending s. 717.1333, F.S.; revising requirements for  
12          the estimation of certain amounts due to the  
13          department; amending s. 717.135, F.S.; revising  
14          requirements for a power of attorney used in the  
15          recovery of unclaimed property; eliminating a maximum  
16          fee provision for such recovery; revising  
17          applicability; deleting a provision that allows  
18          deletion of certain wording from a power of attorney;  
19          providing requirements for certain authorizations and  
20          agreements to recover unclaimed property; amending s.  
21          717.1351, F.S.; revising requirements for contracts to  
22          acquire ownership of or entitlement to unclaimed  
23          property; providing that certain claims are void;  
24          deleting a provision that allows deletion of certain  
25          wording from a purchase agreement; providing  
26          requirements for certain authorizations and agreements

27 | to purchase unclaimed property; repealing s. 717.1381,  
 28 | F.S., relating to void unclaimed property powers of  
 29 | attorney and purchase agreements; amending s. 717.139,  
 30 | F.S.; providing a statement of public policy; amending  
 31 | s. 717.1400, F.S.; removing authority of certain  
 32 | private investigators, accountants, and attorneys to  
 33 | obtain social security numbers; revising registration  
 34 | requirements; providing an effective date.

35 |

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

37 |

38 | Section 1. Subsection (24) of section 717.101, Florida  
 39 | Statutes, is renumbered as subsection (25), subsections (4),  
 40 | (8), and (13) of that section are amended, and a new subsection  
 41 | (24) is added to that section, to read:

42 | 717.101 Definitions.—As used in this chapter, unless the  
 43 | context otherwise requires:

44 | (4) "Business association" means any corporation (other  
 45 | than a public corporation), joint stock company, investment  
 46 | company, business trust, partnership, limited liability company,  
 47 | or association of two or more individuals for business purposes  
 48 | ~~of two or more individuals, whether or not~~ or not for  
 49 | profit, including a banking organization, financial  
 50 | ~~organization, insurance company, dissolved pension plan, or~~  
 51 | ~~utility.~~

52 | (8) "Domicile" means the state of incorporation for, in

53 | ~~the case of~~ a corporation incorporated under the laws of a  
 54 | state, and or, for an unincorporated business association, the  
 55 | state ~~where of the principal place of business~~ association is  
 56 | organized, ~~in the case of a person not incorporated under the~~  
 57 | ~~laws of a state.~~

58 | (13) "Insurance company" means an association,  
 59 | corporation, or fraternal or mutual benefit organization,  
 60 | whether ~~or not~~ for profit or not for profit, which is engaged in  
 61 | providing insurance coverage, ~~including, by way of illustration~~  
 62 | ~~and not limitation, accident, burial, casualty, credit life,~~  
 63 | ~~contract performance, dental, fidelity, fire, health,~~  
 64 | ~~hospitalization, illness, life (including endowments and~~  
 65 | ~~annuities), malpractice, marine, mortgage, surety, and wage~~  
 66 | ~~protection insurance.~~

67 | (24) "United States" means any state, district,  
 68 | commonwealth, territory, insular possession, and any other area  
 69 | subject to the legislative authority of the United States of  
 70 | America.

71 | Section 2. Section 717.1235, Florida Statutes, is created  
 72 | to read:

73 | 717.1235 Dormant campaign accounts; report of unclaimed  
 74 | property.-Unclaimed funds reported in the name of a campaign for  
 75 | public office, for any campaign that must dispose of surplus  
 76 | funds in its campaign account pursuant to s. 106.141, after  
 77 | being reported to the department, shall be deposited with the  
 78 | Chief Financial Officer to the credit of the State School Fund.

79 Section 3. Subsection (4) of section 717.1243, Florida  
 80 Statutes, is amended to read:

81 717.1243 Small estate accounts.—

82 (4) This section only applies if all of the unclaimed  
 83 property held by the department on behalf of the owner has an  
 84 aggregate value of \$10,000 ~~\$5,000~~ or less and no probate  
 85 proceeding is pending.

86 Section 4. Section 717.1262, Florida Statutes, is amended  
 87 to read:

88 717.1262 Court documents.—Any person who claims  
 89 entitlement to unclaimed property by reason of a court document  
 90 shall file a certified copy of the court document with the  
 91 department. A certified copy of each pleading filed with the  
 92 court to obtain a court document establishing entitlement, filed  
 93 within 180 days before the date the claim form was signed by the  
 94 claimant or claimant's representative, must also be filed with  
 95 the department.

96 Section 5. Subsection (2) of section 717.1333, Florida  
 97 Statutes, is amended to read:

98 717.1333 Evidence; estimations; audit reports, examiner's  
 99 worksheets, investigative reports, other related documents.—

100 (2) If the records of the holder that are available for  
 101 the periods subject to this chapter are insufficient to permit  
 102 the preparation of a report of the unclaimed property due and  
 103 owing by a holder, or if the holder fails to provide records  
 104 after being requested to do so, the amount due to the department

105 may be reasonably estimated.

106 Section 6. Subsections (5) and (6) of section 717.135,  
 107 Florida Statutes, are renumbered as subsections (6) and (7),  
 108 respectively, subsection (2) and paragraph (g) of subsection (4)  
 109 of that section are amended, and a new subsection (5) is added  
 110 to that section, to read:

111 717.135 Power of attorney to recover reported property in  
 112 the custody of the department.—

113 (2) A power of attorney described in subsection (1) must:

114 (a) Limit the fees and costs for services to 20 percent  
 115 per unclaimed property account held by the department. Fees and  
 116 costs for cash accounts shall be based on the value of the  
 117 property at the time the power of attorney is signed by the  
 118 claimant. Fees and costs for accounts containing securities or  
 119 other intangible ownership interests, which securities or  
 120 interests are not converted to cash, shall be based on the  
 121 purchase price of the security as quoted on a national exchange  
 122 or other market on which the property is regularly traded at the  
 123 time the securities or other ownership interest is remitted to  
 124 the claimant or the claimant's representative. Fees and costs  
 125 for tangible property or safe-deposit box accounts shall be  
 126 based on the value of the tangible property or contents of the  
 127 safe-deposit box at the time the ownership interest is  
 128 transferred or remitted to the claimant. ~~Total fees and costs on~~  
 129 ~~any single account owned by a natural person residing in this~~  
 130 ~~country must not exceed \$1,000; or~~

131 (b) Fully disclose that the property is held by the Bureau  
 132 of Unclaimed Property of the Department of Financial Services  
 133 pursuant to this chapter, the mailing address of the bureau, the  
 134 Internet address of the bureau, the person or name of the entity  
 135 that held the property prior to the property becoming unclaimed,  
 136 the date of the holder's last contact with the owner, if known,  
 137 and the approximate value of the property, and identify which of  
 138 the following categories of unclaimed property the claimant's  
 139 representative is seeking to recover, as reported by the holder:

- 140 1. Cash accounts.
- 141 2. Stale dated checks.
- 142 3. Life insurance or annuity contract assets.
- 143 4. Utility deposits.
- 144 5. Securities or other interests in business associations.
- 145 6. Wages.
- 146 7. Accounts receivable.
- 147 8. Contents of safe-deposit boxes.

148  
 149 ~~This subsection shall not apply if probate proceedings must be~~  
 150 ~~initiated on behalf of the claimant for an estate that has never~~  
 151 ~~been probated or if the unclaimed property is being claimed by a~~  
 152 ~~person outside of the United States.~~

153 (4)(g) This section does not prohibit the:

- 154 1. Use of bolding, italics, print of different colors, and
- 155 text borders as a means of highlighting or stressing certain
- 156 selected items within the text.

157 2. Placement of the name, address, and telephone number of  
 158 the representative's firm or company in the top margin above the  
 159 words "POWER OF ATTORNEY." No additional writing of any kind may  
 160 be placed in the top margin including, but not limited to,  
 161 logos, license numbers, Internet addresses, or slogans.

162 3. Placement of the word "pending" prior to the words "NET  
 163 AMOUNT TO BE PAID TO CLAIMANT," if it is not yet possible to  
 164 determine the percentage interest of an heir or legatee prior to  
 165 a determination on the issue by the probate court.

166 4. Deletion of the words "Number of Shares of Stock (If  
 167 Applicable)" if the agreement does not relate to the recovery of  
 168 securities.

169 ~~5. Deletion of the words "Percent to Be Paid as~~  
 170 ~~Compensation to Claimant's Representative" if the power of~~  
 171 ~~attorney provides for a flat fee to be paid as compensation to~~  
 172 ~~the claimant's representative.~~

173 (5) (a) Any other authorization or agreement to recover  
 174 unclaimed property executed by or between a claimant's  
 175 representative and the claimant must be signed and personally  
 176 dated by the claimant. The date affixed on any such  
 177 authorization or agreement by the claimant may not be earlier  
 178 than the date personally affixed by the claimant on the original  
 179 limited power of attorney as provided by this chapter. A copy of  
 180 the authorization or agreement must be filed with the original  
 181 claim submitted to the department, along with the original power  
 182 of attorney, as provided by this chapter.

183 (b) If the claimant's representative's fee for a document  
 184 described in this subsection exceeds 20 percent on any given  
 185 claim, s. 717.124(1)(d) applies.

186 Section 7. Paragraph (a) of subsection (2), subsection  
 187 (4), and paragraph (d) of subsection (7) of section 717.1351,  
 188 Florida Statutes, are amended, subsection (8) is renumbered as  
 189 subsection (9), and a new subsection (8) is added to that  
 190 section, to read:

191 717.1351 Acquisition of unclaimed property.-

192 (2) All contracts to acquire ownership of or entitlement  
 193 to unclaimed property from the person or persons entitled to the  
 194 unclaimed property must be in 10-point type or greater and must:

195 (a) Have a purchase price that discounts the value of the  
 196 unclaimed property at the time the agreement is executed by the  
 197 seller at no greater than 20 percent per account held by the  
 198 department. ~~An unclaimed property account must not be discounted~~  
 199 ~~in excess of \$1,000. However, the \$1,000 discount limitation~~  
 200 ~~does not apply if probate proceedings must be initiated on~~  
 201 ~~behalf of the seller for an estate that has never been probated~~  
 202 ~~or if the seller of the unclaimed property is not a natural~~  
 203 ~~person or is a person outside the United States; or~~

204 (4) Any contract to acquire ownership of or entitlement to  
 205 unclaimed property from the person or persons entitled to the  
 206 unclaimed property must provide for the purchase price to be  
 207 remitted to the seller or sellers within 30 ~~10~~ days after the  
 208 execution of the contract by the seller or sellers. The contract

209 must specify the unclaimed property account number, the name of  
 210 the holder who reported the property to the department, the  
 211 category of unclaimed property, the value of the unclaimed  
 212 property account, and the number of shares of stock, if  
 213 applicable. Proof that the seller has received ~~of~~ payment by  
 214 check must be filed with the department with the claim. If proof  
 215 of payment is not provided, the claim is void.

216 (7) This section does not prohibit the:

217 ~~(d) Deletion of the words "Percent of Property to be Paid~~  
 218 ~~to Buyer," if the purchase agreement provides for a flat fee to~~  
 219 ~~be paid as compensation to the buyer.~~

220 (8) (a) Any other authorization or agreement to purchase  
 221 unclaimed property executed by or between a registrant and a  
 222 seller must be signed and personally dated by the seller. The  
 223 date affixed on any such authorization or agreement by the  
 224 seller may not be earlier than the date personally affixed by  
 225 the seller on the original purchase agreement as provided by  
 226 this chapter. A copy of the authorization or agreement must be  
 227 filed with the original claim submitted to the department, along  
 228 with the original purchase agreement, as provided by this  
 229 chapter.

230 (b) If the registrant's purchase fee for a document  
 231 described in this subsection reduces the seller's purchase price  
 232 amount by more than 20 percent on any given claim, s.

233 717.124(1) (d) applies.

234 Section 8. Section 717.1381, Florida Statutes, is

235 repealed.

236 Section 9. Section 717.139, Florida Statutes, is amended  
237 to read:

238 717.139 Uniformity of application and construction.—

239 (1) It is the public policy of the state to protect the  
240 interests of owners of unclaimed property. It is declared to be  
241 in the best interests of owners of unclaimed property that such  
242 owners receive the full amount of any unclaimed property without  
243 any fee.

244 (2) This chapter shall be applied and construed as to  
245 effectuate its general purpose of protecting the interest of  
246 missing owners of property, while providing that the benefit of  
247 all unclaimed and abandoned property shall go to all the people  
248 of the state, and to make uniform the law with respect to the  
249 subject of this chapter among states enacting it.

250 Section 10. Section 717.1400, Florida Statutes, is amended  
251 to read:

252 717.1400 Registration.—

253 (1) In order to file claims as a claimant's  
254 representative, acquire ownership of or entitlement to unclaimed  
255 property, receive a distribution of fees and costs from the  
256 department, and obtain unclaimed property dollar amounts and  
257 ~~numbers of reported shares of stock, and social security numbers~~  
258 held by the department, a private investigator holding a Class  
259 "C" individual license under chapter 493 must register with the  
260 department on such form as the department prescribes ~~shall~~

261 ~~prescribe~~ by rule, and must be verified by the applicant. To  
 262 register with the department, a private investigator must  
 263 provide:

264 (a) A legible copy of the applicant's Class "A" business  
 265 license under chapter 493 or that of the applicant's firm or  
 266 employer which holds a Class "A" business license under chapter  
 267 493.

268 (b) A legible copy of the applicant's Class "C" individual  
 269 license issued under chapter 493.

270 (c) The business address and telephone number of the  
 271 applicant's private investigative firm or employer.

272 (d) The names of agents or employees, if any, who are  
 273 designated to act on behalf of the private investigator,  
 274 together with a legible copy of their photo identification  
 275 issued by an agency of the United States, or a state, or a  
 276 political subdivision thereof.

277 (e) Sufficient information to enable the department to  
 278 disburse funds by electronic funds transfer.

279 (f) The tax identification number of the private  
 280 investigator's firm or employer which holds a Class "A" business  
 281 license under chapter 493.

282 (2) In order to file claims as a claimant's  
 283 representative, acquire ownership of or entitlement to unclaimed  
 284 property, receive a distribution of fees and costs from the  
 285 department, and obtain unclaimed property dollar amounts and,  
 286 numbers of reported shares of stock, ~~and social security numbers~~

287 held by the department, a Florida-certified public accountant  
 288 must register with the department on such form as the department  
 289 prescribes ~~shall prescribe~~ by rule, and must be verified by the  
 290 applicant. To register with the department, a Florida-certified  
 291 public accountant must provide:

292 (a) The applicant's Florida Board of Accountancy number.

293 (b) A legible copy of the applicant's current driver  
 294 license showing the full name and current address of such  
 295 person. If a current driver license is not available, another  
 296 form of identification showing the full name and current address  
 297 of such person or persons shall be filed with the department.

298 (c) The business address and telephone number of the  
 299 applicant's public accounting firm or employer.

300 (d) The names of agents or employees, if any, who are  
 301 designated to act on behalf of the Florida-certified public  
 302 accountant, together with a legible copy of their photo  
 303 identification issued by an agency of the United States, or a  
 304 state, or a political subdivision thereof.

305 (e) Sufficient information to enable the department to  
 306 disburse funds by electronic funds transfer.

307 (f) The tax identification number of the accountant's  
 308 public accounting firm employer.

309 (3) In order to file claims as a claimant's  
 310 representative, acquire ownership of or entitlement to unclaimed  
 311 property, receive a distribution of fees and costs from the  
 312 department, and obtain unclaimed property dollar amounts and

313 numbers of reported shares of stock, ~~and social security numbers~~  
 314 held by the department, an attorney licensed to practice in this  
 315 state must register with the department on such form as the  
 316 department prescribes ~~shall prescribe~~ by rule, and must be  
 317 verified by the applicant. To register with the department, such  
 318 attorney must provide:

319 (a) The applicant's Florida Bar number.

320 (b) A legible copy of the applicant's current driver  
 321 license showing the full name and current address of such  
 322 person. If a current driver license is not available, another  
 323 form of identification showing the full name and current address  
 324 of such person or persons shall be filed with the department.

325 (c) The business address and telephone number of the  
 326 applicant's firm or employer.

327 (d) The names of agents or employees, if any, who are  
 328 designated to act on behalf of the attorney, together with a  
 329 legible copy of their photo identification issued by an agency  
 330 of the United States, or a state, or a political subdivision  
 331 thereof.

332 (e) Sufficient information to enable the department to  
 333 disburse funds by electronic funds transfer.

334 (f) The tax identification number of the attorney's firm  
 335 or employer.

336 (4) Information and documents already on file with the  
 337 department before ~~prior to~~ the effective date of this provision  
 338 need not be resubmitted in order to complete the registration.

339 (5) If a material change in the status of a registration  
 340 occurs, a registrant must, within 30 days, provide the  
 341 department with the updated documentation and information in  
 342 writing. Material changes include, but are not limited to: a  
 343 designated agent or employee ceasing to act on behalf of the  
 344 designating person, a surrender, suspension, or revocation of a  
 345 license, or a license renewal.

346 (a) If a designated agent or employee ceases to act on  
 347 behalf of the person who has designated the agent or employee to  
 348 act on such person's behalf, the designating person must, within  
 349 30 days, inform the Bureau of Unclaimed Property in writing of  
 350 the termination of agency or employment.

351 (b) If a registrant surrenders the registrant's license or  
 352 the license is suspended or revoked, the registrant must, within  
 353 30 days, inform the bureau in writing of the surrender,  
 354 suspension, or revocation.

355 (c) If a private investigator's Class "C" individual  
 356 license under chapter 493 or a private investigator's employer's  
 357 Class "A" business license under chapter 493 is renewed, the  
 358 private investigator must provide a copy of the renewed license  
 359 to the department within 30 days after the receipt of the  
 360 renewed license by the private investigator or the private  
 361 investigator's employer.

362 (6) A registrant's firm or employer may not have a name  
 363 that might lead another person to conclude that the registrant's  
 364 firm or employer is affiliated or associated with the United

365 States, or an agency thereof, or a state or an agency or  
 366 political subdivision of a state. The department shall deny an  
 367 application for registration or revoke a registration if the  
 368 applicant's or registrant's firm or employer has a name that  
 369 might lead another person to conclude that the firm or employer  
 370 is affiliated or associated with the United States, or an agency  
 371 thereof, or a state or an agency or political subdivision of a  
 372 state. Names that might lead another person to conclude that the  
 373 firm or employer is affiliated or associated with the United  
 374 States, or an agency thereof, or a state or an agency or  
 375 political subdivision of a state, include, but are not limited  
 376 to, the words United States, Florida, state, bureau, division,  
 377 department, or government.

378 (7) A registrant must submit a \$500 application fee with  
 379 his or her application for registration and submit a \$250  
 380 renewal fee on or before July 1 of each year thereafter. A  
 381 registrant who fails to pay the renewal fee shall lose  
 382 privileges afforded by this section until his or her fees are  
 383 paid. A registrant who fails to renew his or her registration by  
 384 December 31 must reapply for registration.

385 (8)(7) The licensing and other requirements of this  
 386 section must be maintained as a condition of registration with  
 387 the department.

388 Section 11. This act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Government Operations  
 2 Appropriations Subcommittee  
 3 Representative Trumbull offered the following:

4  
 5 **Amendment**  
 6 Remove lines 378-384  
 7



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 879 Organization of the Department of Financial Services  
**SPONSOR(S):** Insurance & Banking Subcommittee; Renner  
**TIED BILLS:** IDEN./SIM. BILLS: SB 908

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Lloyd	Luczynski
2) Government Operations Appropriations Subcommittee		Keith 	Topp 
3) Regulatory Affairs Committee			

**SUMMARY ANALYSIS**

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the chief fiscal officer of the State of Florida and is designated as the State Fire Marshal. The CFO is the head of the Department of Financial Services (DFS). Current law establishes 14 divisions of the DFS. They are the Divisions of: Accounting and Auditing; Administration; Consumer Services; Funeral, Cemetery, and Consumer Services; Information Systems; Insurance Agent and Agency Services; Insurance Fraud; Legal Services; Public Assistance Fraud; Rehabilitation and Liquidation; Risk Management; State Fire Marshal; Treasury; and Workers' Compensation. The bill reorganizes the DFS, as follows:

- Eliminates the following divisions: Administration; Legal Services; and Information Systems;
- Renames the Division of Insurance Fraud as the Division of Investigative and Forensic Services (DIFS);
- Creates the Bureau of Fire and Arson Investigations and Bureau of Forensic Services within DIFS; they will perform powers, duties and functions that are transferred from the Division of State Fire Marshal to the State Fire Marshal or DFS, generally, or to the DIFS, specifically;
- Changes an appointee to the Joint Task Force on State Agency Law Enforcement Communications from one representing the Division of State Fire Marshal to one representing DIFS and shifts the appointing authority from the State Fire Marshal to the CFO;
- Renames the Bureau of Unclaimed Property as the Division of Unclaimed Property (retaining all of its current powers, duties and functions);
- Eliminates the Office of Fiscal Integrity and shifts its powers, duties and functions to the DIFS;
- Relocates the statutory reference to the powers, duties and functions of the Division of Consumer Services. However, the Division's powers, duties and functions remain the same; and
- Revises relevant statutes to reflect the reorganization of the DFS as made by the substantive portions of the bill.

There are no powers, duties or functions that are created or deleted by the bill; rather, they are either reallocated to a successor unit or reassigned to the DFS, the CFO, or the State Fire Marshal, generally.

The bill has no fiscal impact on state or local government revenues or expenditures. The bill does not impact the private sector.

The bill is effective July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Statutory Divisions, Duties and Functions of the Department of Financial Services**

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the chief fiscal officer of the State of Florida<sup>1</sup> and is designated as the State Fire Marshal.<sup>2</sup> The CFO is the head of the Department of Financial Services (DFS). Effective January 2003, the Department of Insurance, Treasury, State Fire Marshal and the Department of Banking and Finance merged into DFS. The DFS consists of many divisions and several specialized offices.<sup>3</sup>

The various departments of the executive branch receive their statutory powers, duties and functions either in a general grant of authority to either the department head or the department by name or by a specific grant with reference to a particular named unit. The department head has discretion when allocating or reallocating those powers, duties and functions that are assigned to them or their department in a general manner. If the powers, duties and functions are specifically assigned to a particular unit by statute, they cannot be reallocated by the department head. Rather, they must be reallocated by subsequent legislative enactment. There are similar limitations regarding the allocation and reallocation of existing organizational units or the establishment of new ones, including a restriction on establishing new divisions.<sup>4</sup>

Section 20.121, F.S., establishes 14 divisions of the DFS. They are the Divisions of:

- Accounting and Auditing;<sup>5</sup>
- Administration;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Information Systems;
- Insurance Agent and Agency Services;
- Insurance Fraud;
- Legal Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury; and
- Workers' Compensation.<sup>6</sup>

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<sup>1</sup> FLA. CONST. art. IV, s. 4.

<sup>2</sup> s. 633.104(1), F.S. Where applicable, references to the CFO in this bill analysis include the CFO's role as State Fire Marshal.

<sup>3</sup> s. 20.121, F.S.

<sup>4</sup> s. 20.04, F.S. When initiating the creation or reorganization of business units for DMS approval, the DFS is not required to adhere to the conventional terminology of "divisions," "bureaus," "sections," and the like.

<sup>5</sup> s. 20.121(2)(a), F.S. The Division of Accounting and Auditing includes the Bureau of Unclaimed Property, which receives reports and transfers of unclaimed property, and the Office of Fiscal Integrity, which functions as a criminal justice agency that investigates allegations of fraud, waste and abuse of state monies and resources.

<sup>6</sup> s. 20.121(2), F.S. Other statutory units of the DFS include the Bureau of Deferred Compensation, Office of Insurance Consumer Advocate and the Strategic Markets Research and Assessment Unit.

## Division of Accounting and Auditing

The mission of the Division of Accounting and Auditing is to safeguard public assets, settle the state's financial obligations, report financial information, and improve accountability of the state.<sup>7</sup> The Division includes the Bureau of Unclaimed Property and the Office of Fiscal Integrity. It is also empowered by statute to "examine, audit, adjust, and settle the accounts of all the officers of this state, and any other person in anywise entrusted with, or who may have received any property, funds, or moneys of this state, or who may be in anywise indebted or accountable to this state for any property, funds, or moneys, and require such officer or persons to render full accounts thereof, and to yield up such property or funds according to law, or pay such moneys into the treasury of this state, or to such officer or agent of the state as may be appointed to receive the same, and on failure so to do, to cause to be instituted and prosecuted proceedings, criminal or civil, at law or in equity, against such persons, according to law."<sup>8</sup> In executing this power, the Division has the authority to conduct investigations, as necessary inside and outside of the state, and refer any suspected criminal conduct to the appropriate law enforcement and prosecutorial agency.

## Bureau of Unclaimed Property

Unclaimed property constitutes any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Unclaimed property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.<sup>9</sup>

In 1987, Florida adopted the Uniform Unclaimed Property Act and enacted the Florida Disposition of Unclaimed Property Act (ch. 717, F.S., "the Act").<sup>10</sup> The Act serves to protect the interests of missing owners of property, while the state derives a benefit from the unclaimed and abandoned property until the property is claimed, if ever. Under the Act, the Bureau of Unclaimed Property is responsible for receiving property, attempting to locate the rightful owners, and returning the property or proceeds to them. There is no statute of limitations in the Act, and citizens may claim their property, or the value of that property after liquidation as authorized by the Act, at any time and at no cost.

Generally, all intangible property, including any income less any lawful charges, which is held in the ordinary course of the holder's business, is presumed to be unclaimed when the owner fails to claim the property for more than five years after the property becomes payable or distributable, unless otherwise provided in the Act.<sup>11</sup> Holders of unclaimed property (which typically include banks and insurance companies) of \$50 or more are required to use due diligence to locate and notify apparent owners of inactive accounts, at least 60 days but not more than 120 days prior to filing a report with the DFS.<sup>12</sup> If the owners cannot be located, holders must file an annual report with the DFS for all property, valued at \$50 or more, that is presumed unclaimed for the preceding year.<sup>13</sup> The report must contain certain identifying information, such as the apparent owner's name, social security number or federal employer identification number, and last known address of apparent owners.<sup>14</sup> The holder must deliver all reportable unclaimed property to the DFS when it submits its annual report.<sup>15</sup>

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<sup>7</sup> FLORIDA DEPARTMENT OF FINANCIAL SERVICES, *Accounting & Auditing*, <http://www.myfloridacfo.com/Division/AA/> (last visited Feb. 5, 2016).

<sup>8</sup> s. 17.04, F.S.

<sup>9</sup> ss. 717.104 – 717.116, F.S.

<sup>10</sup> Ch. 87-105, Laws of Fla. See also UNIFORM LAW COMMISSION, *Unclaimed Property Act Summary*, <http://www.uniformlaws.org/ActSummary.aspx?title=Unclaimed%20Property%20Act> (last visited Feb. 5, 2016).

<sup>11</sup> s. 717.102(1), F.S.

<sup>12</sup> s. 717.117(4), F.S.

<sup>13</sup> s. 717.117, F.S.

<sup>14</sup> For unclaimed funds owing under any life or endowment insurance policy or annuity contract, the report must also include the last known address of the insured or annuitant and of the beneficiary according to records of the insurance company holding or owing the funds. s. 717.117(1)(b), F.S.

<sup>15</sup> s. 717.119, F.S.

Upon the payment or delivery of unclaimed property to the DFS, the state assumes custody and responsibility for the safekeeping of the property.<sup>16</sup> The original property owner retains the right to recover the proceeds of the property, and any person claiming an interest in the property delivered to the DFS may file a claim for the property, subject to certain requirements.<sup>17</sup> The DFS is required to make a determination on a claim within 90 days. If a claim is determined in favor of the claimant, the DFS is to deliver or pay over to the claimant the property or the amount the DFS actually received, or the proceeds, if it has been sold by the DFS.<sup>18</sup>

If the property remains unclaimed, it is liquidated and the proceeds are deposited into the Unclaimed Property Trust Fund.<sup>19</sup> The DFS is authorized to retain up to \$15 million in the Unclaimed Property Trust Fund to make prompt payment of verified claims and to cover costs incurred by the DFS in administering and enforcing the Act. Excess funds in the Unclaimed Property Trust Fund are paid into the State School Trust Fund for investment and generation of income to benefit education in the state.<sup>20</sup>

### **Office of Fiscal Integrity**

The Office of Fiscal Integrity (OFI) is a criminal justice agency within the DFS whose mission is to detect and investigate the misappropriation or misuse of state assets. The OFI performs functions related to the duty of the CFO to examine, audit, adjust, and settle the accounts of all state officers and any other person who has received state funds or moneys.<sup>21</sup> The OFI has sworn law enforcement officers on staff to conduct investigations or provide investigative assistance to other law enforcement agencies.<sup>22</sup>

### **Division of Insurance Fraud**

The Division of Insurance Fraud investigates various types of insurance fraud including Personal Injury Protection (PIP) fraud, workers' compensation fraud, vehicle fraud, application fraud, licensee fraud, homeowner's insurance fraud, and healthcare fraud.<sup>23</sup> The Division is directed by statute to investigate fraudulent insurance acts, violations of the Unfair Insurance Trade Practices Act,<sup>24</sup> false and fraudulent insurance claims,<sup>25</sup> and willful violations of the Florida Insurance Code<sup>26</sup> and rules adopted pursuant to the code.<sup>27</sup> The Division employs sworn law enforcement officers to investigate insurance fraud. In Fiscal Year 2014-2015, the division received 17,392 referrals.<sup>28</sup>

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<sup>16</sup> s. 717.1201, F.S. Like many other states' unclaimed property acts, the Act is based on the common-law doctrine of escheat and is a "custody" statute, rather than a "title" statute, in that the DFS does not take title to abandoned property, but instead obtains its custody and beneficial use pending identification of the property owner.

<sup>17</sup> ss. 717.117 and 717.124, F.S.

<sup>18</sup> s. 717.124, F.S.

<sup>19</sup> s. 717.123, F.S.

<sup>20</sup> *Id.*

<sup>21</sup> s. 17.04, F.S.

<sup>22</sup> FLORIDA DEPARTMENT OF FINANCIAL SERVICES, *Accounting & Auditing*, <http://www.myfloridacfo.com/Division/AA/StateAgencies/OfficeofFiscalIntegrity.htm> (last visited Feb. 5, 2016).

<sup>23</sup> FLORIDA DEPARTMENT OF FINANCIAL SERVICES, *Accounting & Auditing*, <http://www.myfloridacfo.com/division/fraud/> (last visited Feb. 5, 2016).

<sup>24</sup> s. 626.9541, F.S.

<sup>25</sup> s. 817.234, F.S.

<sup>26</sup> Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S., constitute the "Florida Insurance Code." s. 624.01, F.S.

<sup>27</sup> s. 624.15, F.S.

<sup>28</sup> FLORIDA DEPARTMENT OF FINANCIAL SERVICES, *Division of Insurance Fraud Annual Report Fiscal Year 2014-2015*, p. 4, [http://www.myfloridacfo.com/division/fraud/documents/2014-15\\_Annual-Report.pdf](http://www.myfloridacfo.com/division/fraud/documents/2014-15_Annual-Report.pdf) (last visited Feb. 5, 2016).

## **Division of Consumer Services**

The Division of Consumer Services deals with consumer issues and complaints related to the jurisdiction of the DFS and the Office of Insurance Regulation (OIR). The Division:

- Receives inquiries and complaints from consumers;
- Prepares and disseminates information as the DFS deems appropriate to inform or assist consumers;
- Provides direct assistance and advocacy for consumers; and
- Reports potential violations of law or applicable rules by a person or entity licensed by the DFS or the OIR to the appropriate division within DFS or the OIR, as appropriate.<sup>29</sup>

## **Division of the State Fire Marshal**

Chapter 633, F.S., governs fire prevention and control in the state. Section 633.104, F.S., designates the CFO as the State Fire Marshal. The CFO implements the duties of State Fire Marshal and ch. 633, F.S., through the Division of the State Fire Marshal. Pursuant to this authority, the Division regulates, trains, and certifies fire service personnel, investigates the causes of fires, enforces arson laws, regulates the installation of fire equipment, conducts firesafety inspections of state property, develops firesafety standards, provides facilities for the analysis of fire debris, and operates the Florida State Fire College.

## **Effect of the Bill**

The bill eliminates the Division of Administration, the Division of Legal Services, and the Division of Information Systems. According to DFS, these divisions all conduct administrative functions that every state agency has and are not required to be provided for in statute. These divisions do not have any specific statutory powers, duties and functions. They implement the general authority of the CFO.

The bill removes the Bureau of Unclaimed Property and the Office of Fiscal Integrity (OFI) from the Division of Accounting and Auditing. The Division of Auditing and Accounting continues to exist, without specific subunits or powers, duties and functions being provided for in statute. The Bureau of Unclaimed Property becomes the Division of Unclaimed Property and retains all of its current powers, duties and functions. The OFI's powers, duties and functions are transferred to the Division of Investigative and Forensic Services. While reference to the OFI is removed from statute, its powers, duties and functions will continue to be utilized.

The Division of Insurance Fraud is renamed the Division of Investigative and Forensic Services (DIFS). The Bureau of Fire and Arson Investigations and the Bureau of Forensic Services are created within the DIFS. While these two bureaus do not receive any specific powers, duties and functions under the bill, the DFS reports that they will perform the powers, duties and functions within ch. 633, F.S., which the bill transfers from the Division of State Fire Marshal to the State Fire Marshal or the DFS, generally, or to the DIFS, specifically. Those powers, duties and functions that are given to the State Fire Marshal or the DFS as a general assignment can subsequently be reallocated at the discretion of the State Fire Marshal.<sup>30</sup> The DFS states that it will reallocate 131 full time equivalency positions from the Division of State Fire Marshal to the DIFS upon the bill becoming effective.<sup>31</sup> The establishment of the DIFS by the bill effectively consolidates all of the law enforcement and related support units in the DFS into a single division.

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<sup>29</sup> s. 20.121(2)(h), F.S.

<sup>30</sup> s. 20.04(7)(a), F.S.

<sup>31</sup> FLORIDA DEPARTMENT OF FINANCIAL SERVICES, Agency Analysis of 2016 HB 879, p. 2 (Feb. 5, 2016). The process of formalizing such a reallocation of positions involves filings with the Department of Management Services and the Legislative Budget Commission and would occur subsequent to the effective date of the bill, if passed.

Currently, a representative of the Division of State Fire Marshal, appointed by the State Fire Marshal, serves on the Joint Task Force on State Agency Law Enforcement Communications. Since the DFS law enforcement personnel are consolidated within the DIFS, the bill changes the appointee from a representative of the Division of State Fire Marshal to one representing the DIFS and the appointing authority from the State Fire Marshal to the CFO.

The bill relocates the statutory reference to the powers, duties and functions of the Division of Consumer Services from s. 20.121(2), F.S., which addresses the organizational structure of the DFS to s. 624.307, F.S., which describes the general powers and the duties of the DFS. The Division's powers, duties and functions remain the same.

There are no powers, duties or functions that are created or deleted by the bill; rather, they are either reallocated to a successor unit or reassigned to the DFS, the CFO, or the State Fire Marshal, generally.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 17.04, F.S., relating to certain investigatory powers of the Division of Accounting and Auditing.

**Section 2.** Amends s. 17.0401, F.S., making the CFO responsible for maintaining the confidential and exempt nature of certain public records, rather than the Division of Accounting and Auditing.

**Section 3.** Amends s. 20.021, F.S., relating to the required business units of the DFS and certain powers, duties and functions of these units.

**Section 4.** Amends s. 624.26, F.S., eliminating a cross-reference.

**Section 5.** Amends s. 624.307, F.S., relating to the relocation of powers and duties of the Division of Consumer Services that were formerly found in s. 20.121(2)(h), F.S.

**Sections 6 through 25.** Amend s. 16.59, F.S., s. 400.9935, F.S., s. 409.91212, F.S., s. 440.105, F.S., s. 440.1051, s. 440.12, F.S., s. 624.521, F.S., s. 626.016, F.S., s. 626.989, F.S., s. 626.9891, F.S., s. 626.9892, F.S., s. 626.9893, F.S., s. 626.9894, F.S., s. 626.99278, F.S., s. 627.351, F.S., s. 627.711, F.S., s. 627.736, F.S., s. 627.7401, F.S., s. 631.156, F.S., and s. 641.30, F.S., relating to the renaming of the Division of Insurance Fraud as the DIFS.

**Sections 26 through 30.** Amend s. 282.709, F.S., s. 552.113, F.S., s. 552.21, F.S., s. 633.112, F.S., and s. 633.114, F.S., relating to the transfer of certain powers, duties, and functions from the Division of State Fire Marshal to the DIFS, the DFS, the State Fire Marshal, or the CFO.

**Sections 31 through 37.** Amend s. 633.122, F.S., s. 633.126, F.S., s. 633.422, F.S., s. 633.508, F.S., s. 633.512, F.S., s. 633.518, F.S., and s. 791.013, F.S., relating to the transfer of certain powers, duties, and functions from the Division of State Fire Marshal to the DIFS, the DFS, or the State Fire Marshal.

**Sections 38 through 43.** Amend s. 538.32, F.S., s. 717.1241, F.S., s. 717.1323, F.S., s. 717.135, F.S., s. 717.1351, F.S., and s. 717.1400, F.S., relating to the renaming of the Bureau of Unclaimed Property to the Division of Unclaimed Property.

**Section 44.** Amends s. 932.7055, F.S., relating to the transfer of certain powers, duties, and functions from the Division of State Fire Marshal to the DIFS.

**Section 45.** Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill is not anticipated to have a fiscal impact on state government. However, the DFS will need to submit a budget amendment (pursuant to chapter 216, Florida Statutes) to the Executive Office of the Governor and the Legislature to properly align FY 2016-2017 appropriations and positions contained in the General Appropriations Act to the updated organizational structure contained in the bill.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2016, the Insurance & Banking Subcommittee considered a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The committee substitute reflects the deletion of several provisions of the bill that would have:

- Authorized the Chief Financial Officer to create organizational business units within the Department of Financial Services (DFS);

- Eliminated the Strategic Markets Research and Assessment Unit and a required report from the Department of Financial Services to the Cabinet, Senate President and Speaker of the House of Representatives;
- Created a statutory rewards program for information leading to a conviction of certain crimes;
- Established the crime of impersonating an agent of the new Division of Investigative and Forensic Services; and
- Expanded the application of rules adopted under ch. 717, F.S.

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

1                                   A bill to be entitled  
2           An act relating to organization of the Department of  
3           Financial Services; amending ss. 17.04 and 17.0401,  
4           F.S.; authorizing the Chief Financial Officer, rather  
5           than the Division of Accounting and Auditing, to audit  
6           and adjust accounts of officers and those indebted to  
7           the state; making conforming changes; reordering and  
8           amending s. 20.121, F.S.; revising the divisions and  
9           the location of bureaus within the divisions; revising  
10          the functions of the department; providing duties for  
11          the Division of Investigative and Forensic Services;  
12          amending s. 624.26, F.S.; conforming a provision to  
13          changes made by the act; amending s. 624.307, F.S.;  
14          providing powers and duties of the Division of  
15          Consumer Services; authorizing the division to impose  
16          certain penalties; authorizing the department to adopt  
17          rules relating to the division; providing for  
18          construction; amending ss. 16.59, 400.9935, 409.91212,  
19          440.105, 440.1051, 440.12, 624.521, 626.016, 626.989,  
20          626.9891, 626.9892, 626.9893, 626.9894, 626.99278,  
21          627.351, 627.711, 627.736, 627.7401, 631.156, and  
22          641.30, F.S., relating to the renaming of the Division  
23          of Insurance Fraud; conforming provisions to changes  
24          made by the act; making technical changes; amending  
25          ss. 282.709, 552.113, 552.21, 633.112, 633.114,  
26          633.122, 633.126, 633.422, 633.508, 633.512, 633.518,

27 | and 791.013, F.S., relating to the transfer of certain  
 28 | functions to the Division of Investigative and  
 29 | Forensic Services; conforming provisions to changes  
 30 | made by the act; amending ss. 538.32, 717.1241,  
 31 | 717.1323, 717.135, 717.1351, and 717.1400, F.S.,  
 32 | relating to the renaming of the Bureau of Unclaimed  
 33 | Property; conforming provisions to changes made by the  
 34 | act; making technical changes; amending s. 932.7055,  
 35 | F.S.; conforming provisions to changes made by the  
 36 | act; providing an effective date.

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

Section 1. Section 17.04, Florida Statutes, is amended to read:

17.04 To audit and adjust accounts of officers and those indebted to the state.—The Chief Financial Officer, using generally accepted auditing procedures for testing or sampling, shall examine, audit, adjust, and settle the accounts of all the officers of this state, and any other person in anywise entrusted with, or who may have received any property, funds, or moneys of this state, or who may be in anywise indebted or accountable to this state for any property, funds, or moneys, and require such officer or persons to render full accounts thereof, and to yield up such property or funds according to law, or pay such moneys into the treasury of this state, or to

53 | such officer or agent of the state as may be appointed to  
 54 | receive the same, and on failure so to do, to cause to be  
 55 | instituted and prosecuted proceedings, criminal or civil, at law  
 56 | or in equity, against such persons, according to law. The Chief  
 57 | Financial Officer ~~Division of Accounting and Auditing~~ may  
 58 | conduct investigations within or outside of this state as it  
 59 | deems necessary to aid in the enforcement of this section. If  
 60 | during an investigation the Chief Financial Officer ~~division~~ has  
 61 | reason to believe that any criminal statute of this state has or  
 62 | may have been violated, the Chief Financial Officer ~~division~~  
 63 | shall refer any records tending to show such violation to state  
 64 | or federal law enforcement or prosecutorial agencies and shall  
 65 | provide investigative assistance to those agencies as required.

66 |       Section 2. Section 17.0401, Florida Statutes, is amended  
 67 | to read:

68 |       17.0401 Confidentiality of information relating to  
 69 | financial investigations.—Except as otherwise provided by this  
 70 | section, information relative to an investigation conducted by  
 71 | the Chief Financial Officer ~~Division of Accounting and Auditing~~  
 72 | pursuant to s. 17.04, including any consumer complaint, is  
 73 | confidential and exempt from the provisions of s. 119.07(1) and  
 74 | s. 24(a), Art. I of the State Constitution until the  
 75 | investigation is completed or ceases to be active. Any  
 76 | information relating to an investigation conducted ~~by the~~  
 77 | ~~division~~ pursuant to s. 17.04 shall remain confidential and  
 78 | exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I

79 | of the State Constitution after the ~~division's~~ investigation is  
 80 | completed or ceases to be active if the Chief Financial Officer  
 81 | ~~division~~ submits the information to any law enforcement or  
 82 | prosecutorial agency for further investigation. Such information  
 83 | shall remain confidential and exempt from the provisions of s.  
 84 | 119.07(1) and s. 24(a), Art. I of the State Constitution until  
 85 | that agency's investigation is completed or ceases to be active.  
 86 | For purposes of this section, an investigation shall be  
 87 | considered "active" so long as the Chief Financial Officer  
 88 | ~~division~~ or any law enforcement or prosecutorial agency is  
 89 | proceeding with reasonable dispatch and has a reasonable good  
 90 | faith belief that the investigation may lead to the filing of an  
 91 | administrative, civil, or criminal proceeding. This section  
 92 | shall not be construed to prohibit disclosure of information  
 93 | that is required by law to be filed with the Department of  
 94 | Financial Services or the Office of Financial Regulation and  
 95 | that, but for the investigation, would otherwise be subject to  
 96 | public disclosure. Nothing in this section shall be construed to  
 97 | prohibit the Chief Financial Officer ~~division~~ from providing  
 98 | information to any law enforcement or prosecutorial agency. Any  
 99 | law enforcement or prosecutorial agency receiving confidential  
 100 | information from the Chief Financial Officer ~~division~~ in  
 101 | connection with its official duties shall maintain the  
 102 | confidentiality of the information as provided for in this  
 103 | section.

104 | Section 3. Subsection (2) of section 20.121, Florida

105 Statutes, is reordered and amended to read:

106 20.121 Department of Financial Services.—There is created  
 107 a Department of Financial Services.

108 (2) DIVISIONS.—The Department of Financial Services shall  
 109 consist of the following divisions and office:

110 (a) The Division of Accounting and Auditing, ~~which shall~~  
 111 ~~include the following bureau and office:~~

112 1. ~~The Bureau of Unclaimed Property.~~

113 2. ~~The Office of Fiscal Integrity which shall function as~~  
 114 ~~a criminal justice agency for purposes of ss. 943.045-943.08 and~~  
 115 ~~shall have a separate budget. The office may conduct~~  
 116 ~~investigations within or outside this state as the bureau deems~~  
 117 ~~necessary to aid in the enforcement of this section. If during~~  
 118 ~~an investigation the office has reason to believe that any~~  
 119 ~~criminal law of this state has or may have been violated, the~~  
 120 ~~office shall refer any records tending to show such violation to~~  
 121 ~~state or federal law enforcement or prosecutorial agencies and~~  
 122 ~~shall provide investigative assistance to those agencies as~~  
 123 ~~required.~~

124 (i) ~~(b)~~ The Division of State Fire Marshal.

125 (h) ~~(e)~~ The Division of Risk Management.

126 (j) ~~(d)~~ The Division of Treasury, which shall include a  
 127 Bureau of Deferred Compensation responsible for administering  
 128 the Government Employees Deferred Compensation Plan established  
 129 under s. 112.215 for state employees.

130 (k) The Division of Unclaimed Property.

131           (e) The Division of Investigative and Forensic Services,  
 132 which shall include the Bureau of Forensic Services and the  
 133 Bureau of Fire and Arson Investigations, and which shall  
 134 function as a criminal justice agency for purposes of ss.  
 135 943.045-943.08. The division may conduct investigations within  
 136 or outside of this state as it deems necessary. If, during an  
 137 investigation, the division has reason to believe that any  
 138 criminal law of this state has or may have been violated, it  
 139 shall refer any records tending to show such violation to state  
 140 or federal law enforcement or prosecutorial agencies and shall  
 141 provide investigative assistance to those agencies as required  
 142 Insurance-Fraud.

143           ~~(g)~~ ~~(f)~~ The Division of Rehabilitation and Liquidation.

144           ~~(d)~~ ~~(g)~~ The Division of Insurance Agent and Agency  
 145 Services.

146           ~~(b)~~ ~~(h)~~ The Division of Consumer Services.

147           ~~1. The Division of Consumer Services shall perform the~~  
 148 ~~following functions concerning products or services regulated by~~  
 149 ~~the department or by the Office of Insurance Regulation:~~

150           ~~a. Receive inquiries and complaints from consumers.~~

151           ~~b. Prepare and disseminate such information as the~~  
 152 ~~department deems appropriate to inform or assist consumers.~~

153           ~~c. Provide direct assistance and advocacy for consumers~~  
 154 ~~who request such assistance or advocacy.~~

155           ~~d. With respect to apparent or potential violations of law~~  
 156 ~~or applicable rules by a person or entity licensed by the~~

157 ~~department or office, report apparent or potential violations to~~  
 158 ~~the office or the appropriate division of the department, which~~  
 159 ~~may take such further action as it deems appropriate.~~

160 ~~e. Designate an employee of the division as primary~~  
 161 ~~contact for consumers on issues relating to sinkholes.~~

162 ~~2. Any person licensed or issued a certificate of~~  
 163 ~~authority by the department or by the Office of Insurance~~  
 164 ~~Regulation shall respond, in writing, to the Division of~~  
 165 ~~Consumer Services within 20 days after receipt of a written~~  
 166 ~~request for information from the division concerning a consumer~~  
 167 ~~complaint. The response must address the issues and allegations~~  
 168 ~~raised in the complaint. The division may impose an~~  
 169 ~~administrative penalty for failure to comply with this~~  
 170 ~~subparagraph of up to \$2,500 per violation upon any entity~~  
 171 ~~licensed by the department or the office and \$250 for the first~~  
 172 ~~violation, \$500 for the second violation, and up to \$1,000 per~~  
 173 ~~violation thereafter upon any individual licensed by the~~  
 174 ~~department or the office.~~

175 ~~3. The department may adopt rules to administer this~~  
 176 ~~paragraph.~~

177 ~~4. The powers, duties, and responsibilities expressed or~~  
 178 ~~granted in this paragraph do not limit the powers, duties, and~~  
 179 ~~responsibilities of the Department of Financial Services, the~~  
 180 ~~Financial Services Commission, the Office of Insurance~~  
 181 ~~Regulation, or the Office of Financial Regulation set forth~~  
 182 ~~elsewhere in the Florida Statutes.~~

183        (l)~~(i)~~ The Division of Workers' Compensation.  
 184        ~~(j) The Division of Administration.~~  
 185        ~~(k) The Division of Legal Services.~~  
 186        ~~(l) The Division of Information Systems.~~  
 187        (m) The Office of Insurance Consumer Advocate.  
 188        (c)~~(n)~~ The Division of Funeral, Cemetery, and Consumer  
 189 Services.

190        (f)~~(o)~~ The Division of Public Assistance Fraud.

191        Section 4. Subsection (4) of section 624.26, Florida  
 192 Statutes, is amended to read:

193            624.26 Collaborative arrangement with the Department of  
 194 Health and Human Services.—

195            (4) The department's Division of Consumer Services may  
 196 respond to complaints by consumers relating to a requirement of  
 197 PPACA ~~as authorized under s. 20.121(2)(h)~~, and report apparent  
 198 or potential violations to the office and to the federal  
 199 Department of Health and Human Services.

200        Section 5. Subsection (10) is added to section 624.307,  
 201 Florida Statutes, to read:

202            624.307 General powers; duties.—

203            (10) (a) The Division of Consumer Services shall perform  
 204 the following functions concerning products or services  
 205 regulated by the department or office:

- 206            1. Receive inquiries and complaints from consumers.  
 207            2. Prepare and disseminate information that the department  
 208 deems appropriate to inform or assist consumers.

209        3. Provide direct assistance to and advocacy for consumers  
 210 who request such assistance or advocacy.

211        4. With respect to apparent or potential violations of law  
 212 or applicable rules committed by a person or entity licensed by  
 213 the department or office, report apparent or potential  
 214 violations to the office or to the appropriate division of the  
 215 department, which may take any additional action it deems  
 216 appropriate.

217        5. Designate an employee of the division as the primary  
 218 contact for consumers on issues relating to sinkholes.

219        (b) Any person licensed or issued a certificate of  
 220 authority by the department or the office shall respond, in  
 221 writing, to the division within 20 days after receipt of a  
 222 written request for information from the division concerning a  
 223 consumer complaint. The response must address the issues and  
 224 allegations raised in the complaint. The division may impose an  
 225 administrative penalty for failure to comply with this paragraph  
 226 of up to \$2,500 per violation upon any entity licensed by the  
 227 department or the office and \$250 for the first violation, \$500  
 228 for the second violation, and up to \$1,000 for the third or  
 229 subsequent violation upon any individual licensed by the  
 230 department or the office.

231        (c) The department may adopt rules to administer this  
 232 subsection.

233        (d) The powers, duties, and responsibilities expressed or  
 234 granted in this subsection do not limit the powers, duties, and

235 responsibilities of the department, the Financial Services  
 236 Commission, the Office of Insurance Regulation, or the Office of  
 237 Financial Regulation as otherwise provided by law.

238 Section 6. Section 16.59, Florida Statutes, is amended to  
 239 read:

240 16.59 Medicaid fraud control.—The Medicaid Fraud Control  
 241 Unit is created in the Department of Legal Affairs to  
 242 investigate all violations of s. 409.920 and any criminal  
 243 violations discovered during the course of those investigations.  
 244 The Medicaid Fraud Control Unit may refer any criminal violation  
 245 so uncovered to the appropriate prosecuting authority. The  
 246 offices of the Medicaid Fraud Control Unit, the Agency for  
 247 Health Care Administration Medicaid program integrity program,  
 248 and the Divisions of Investigative and Forensic Services  
 249 ~~Insurance Fraud~~ and Public Assistance Fraud within the  
 250 Department of Financial Services shall, to the extent possible,  
 251 be collocated; however, positions dedicated to Medicaid managed  
 252 care fraud within the Medicaid Fraud Control Unit shall be  
 253 collocated with the Division of Investigative and Forensic  
 254 Services ~~Insurance Fraud~~. The Agency for Health Care  
 255 Administration, the Department of Legal Affairs, and the  
 256 Divisions of Investigative and Forensic Services ~~Insurance Fraud~~  
 257 and Public Assistance Fraud within the Department of Financial  
 258 Services shall conduct joint training and other joint activities  
 259 designed to increase communication and coordination in  
 260 recovering overpayments.

261 Section 7. Subsection (9) of section 400.9935, Florida  
 262 Statutes, is amended to read:

263 400.9935 Clinic responsibilities.—

264 (9) In addition to the requirements of part II of chapter  
 265 408, the clinic shall display a sign in a conspicuous location  
 266 within the clinic readily visible to all patients indicating  
 267 that, pursuant to s. 626.9892, the Department of Financial  
 268 Services may pay rewards of up to \$25,000 to persons providing  
 269 information leading to the arrest and conviction of persons  
 270 committing crimes investigated by the Division of Investigative  
 271 and Forensic Services ~~Insurance-Fraud~~ arising from violations of  
 272 s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234.  
 273 An authorized employee of the Division of Investigative and  
 274 Forensic Services ~~Insurance-Fraud~~ may make unannounced  
 275 inspections of a clinic licensed under this part as necessary to  
 276 determine whether the clinic is in compliance with this  
 277 subsection. A licensed clinic shall allow full and complete  
 278 access to the premises to such authorized employee of the  
 279 division who makes an inspection to determine compliance with  
 280 this subsection.

281 Section 8. Subsection (6) of section 409.91212, Florida  
 282 Statutes, is amended to read:

283 409.91212 Medicaid managed care fraud.—

284 (6) Each managed care plan shall report all suspected or  
 285 confirmed instances of provider or recipient fraud or abuse  
 286 within 15 calendar days after detection to the Office of

287 Medicaid Program Integrity within the agency. At a minimum the  
 288 report must contain the name of the provider or recipient, the  
 289 Medicaid billing number or tax identification number, and a  
 290 description of the fraudulent or abusive act. The Office of  
 291 Medicaid Program Integrity in the agency shall forward the  
 292 report of suspected overpayment, abuse, or fraud to the  
 293 appropriate investigative unit, including, but not limited to,  
 294 the Bureau of Medicaid program integrity, the Medicaid fraud  
 295 control unit, the Division of Public Assistance Fraud, the  
 296 Division of Investigative and Forensic Services ~~Insurance Fraud~~,  
 297 or the Department of Law Enforcement.

298 (a) Failure to timely report shall result in an  
 299 administrative fine of \$1,000 per calendar day after the 15th  
 300 day of detection.

301 (b) Failure to timely report may result in additional  
 302 administrative, civil, or criminal penalties.

303 Section 9. Paragraph (a) of subsection (1) of section  
 304 440.105, Florida Statutes, is amended to read:

305 440.105 Prohibited activities; reports; penalties;  
 306 limitations.—

307 (1)(a) Any insurance carrier, any individual self-insured,  
 308 any commercial or group self-insurance fund, any professional  
 309 practitioner licensed or regulated by the Department of Health,  
 310 except as otherwise provided by law, any medical review  
 311 committee as defined in s. 766.101, any private medical review  
 312 committee, and any insurer, agent, or other person licensed

313 | under the insurance code, or any employee thereof, having  
 314 | knowledge or who believes that a fraudulent act or any other act  
 315 | or practice which, upon conviction, constitutes a felony or  
 316 | misdemeanor under this chapter is being or has been committed  
 317 | shall send to the Division of Investigative and Forensic  
 318 | Services ~~Insurance Fraud~~, Bureau of Workers' Compensation Fraud,  
 319 | a report or information pertinent to such knowledge or belief  
 320 | and such additional information relative thereto as the bureau  
 321 | may require. The bureau shall review such information or reports  
 322 | and select such information or reports as, in its judgment, may  
 323 | require further investigation. It shall then cause an  
 324 | independent examination of the facts surrounding such  
 325 | information or report to be made to determine the extent, if  
 326 | any, to which a fraudulent act or any other act or practice  
 327 | which, upon conviction, constitutes a felony or a misdemeanor  
 328 | under this chapter is being committed. The bureau shall report  
 329 | any alleged violations of law which its investigations disclose  
 330 | to the appropriate licensing agency and state attorney or other  
 331 | prosecuting agency having jurisdiction with respect to any such  
 332 | violations of this chapter. If prosecution by the state attorney  
 333 | or other prosecuting agency having jurisdiction with respect to  
 334 | such violation is not begun within 60 days of the bureau's  
 335 | report, the state attorney or other prosecuting agency having  
 336 | jurisdiction with respect to such violation shall inform the  
 337 | bureau of the reasons for the lack of prosecution.

338 | Section 10. Subsections (1) and (2) of section 440.1051,

339 Florida Statutes, are amended to read:

340 440.1051 Fraud reports; civil immunity; criminal  
 341 penalties.-

342 (1) The Bureau of Workers' Compensation Insurance Fraud of  
 343 the Division of Investigative and Forensic Services ~~Insurance~~  
 344 ~~Fraud~~ of the department shall establish a toll-free telephone  
 345 number to receive reports of workers' compensation fraud  
 346 committed by an employee, employer, insurance provider,  
 347 physician, attorney, or other person.

348 (2) Any person who reports workers' compensation fraud to  
 349 the Division of Investigative and Forensic Services ~~Insurance~~  
 350 ~~Fraud~~ under subsection (1) is immune from civil liability for  
 351 doing so, and the person or entity alleged to have committed the  
 352 fraud may not retaliate against him or her for providing such  
 353 report, unless the person making the report knows it to be  
 354 false.

355 Section 11. Paragraph (c) of subsection (1) of section  
 356 440.12, Florida Statutes, is amended to read:

357 440.12 Time for commencement and limits on weekly rate of  
 358 compensation.-

359 (1) Compensation is not allowed for the first 7 days of  
 360 the disability, except for benefits provided under s. 440.13.  
 361 However, if the injury results in more than 21 days of  
 362 disability, compensation is allowed from the commencement of the  
 363 disability.

364 (c) Each carrier shall keep a record of all payments made

365 | under this subsection, including the time and manner of such  
 366 | payments, and shall furnish these records or a report based on  
 367 | these records to the Division of Investigative and Forensic  
 368 | Services ~~Insurance-Fraud~~ and the Division of Workers'  
 369 | Compensation, upon request.

370 |       Section 12. Subsection (1) of section 624.521, Florida  
 371 | Statutes, is amended to read:

372 |           624.521 Deposit of certain tax receipts; refund of  
 373 | improper payments.-

374 |       (1) The department ~~of Financial Services~~ shall promptly  
 375 | deposit in the State Treasury to the credit of the Insurance  
 376 | Regulatory Trust Fund all "state tax" portions of agents'  
 377 | licenses collected under s. 624.501 necessary to fund the  
 378 | Division of Investigative and Forensic Services ~~Insurance-Fraud~~.  
 379 | The balance of the tax shall be credited to the General Fund.  
 380 | All moneys received by the department ~~of Financial Services~~ or  
 381 | the office not in accordance with ~~the provisions of~~ this code or  
 382 | not in the exact amount as specified by the applicable  
 383 | provisions of this code shall be returned to the remitter. The  
 384 | records of the department or office shall show the date and  
 385 | reason for such return.

386 |       Section 13. Subsection (4) of section 626.016, Florida  
 387 | Statutes, is amended to read:

388 |           626.016 Powers and duties of department, commission, and  
 389 | office.-

390 |       (4) ~~Nothing in~~ This section is not intended to limit the

391 authority of the department and the Division of Investigative  
 392 and Forensic Services ~~Insurance-Fraud~~, as specified in s.  
 393 626.989.

394 Section 14. Section 626.989, Florida Statutes, is amended  
 395 to read:

396 626.989 Investigation by department or Division of  
 397 Investigative and Forensic Services ~~Insurance-Fraud~~; compliance;  
 398 immunity; confidential information; reports to division;  
 399 division investigator's power of arrest.-

400 (1) For the purposes of this section:

401 (a) A person commits a "fraudulent insurance act" if the  
 402 person:

403 1. Knowingly and with intent to defraud presents, causes  
 404 to be presented, or prepares with knowledge or belief that it  
 405 will be presented, to or by an insurer, self-insurer, self-  
 406 insurance fund, servicing corporation, purported insurer,  
 407 broker, or any agent thereof, any written statement as part of,  
 408 or in support of, an application for the issuance of, or the  
 409 rating of, any insurance policy, or a claim for payment or other  
 410 benefit pursuant to any insurance policy, which the person knows  
 411 to contain materially false information concerning any fact  
 412 material thereto or if the person conceals, for the purpose of  
 413 misleading another, information concerning any fact material  
 414 thereto.

415 2. Knowingly submits:

416 a. A false, misleading, or fraudulent application or other

417 | document when applying for licensure as a health care clinic,  
 418 | seeking an exemption from licensure as a health care clinic, or  
 419 | demonstrating compliance with part X of chapter 400 with an  
 420 | intent to use the license, exemption from licensure, or  
 421 | demonstration of compliance to provide services or seek  
 422 | reimbursement under the Florida Motor Vehicle No-Fault Law.

423 |       b. A claim for payment or other benefit pursuant to a  
 424 | personal injury protection insurance policy under the Florida  
 425 | Motor Vehicle No-Fault Law if the person knows that the payee  
 426 | knowingly submitted a false, misleading, or fraudulent  
 427 | application or other document when applying for licensure as a  
 428 | health care clinic, seeking an exemption from licensure as a  
 429 | health care clinic, or demonstrating compliance with part X of  
 430 | chapter 400.

431 |       (b) The term "insurer" also includes a health maintenance  
 432 | organization, and the term "insurance policy" also includes a  
 433 | health maintenance organization subscriber contract.

434 |       (2) If, by its own inquiries or as a result of complaints,  
 435 | the department or its Division of Investigative and Forensic  
 436 | Services ~~Insurance Fraud~~ has reason to believe that a person has  
 437 | engaged in, or is engaging in, a fraudulent insurance act, an  
 438 | act or practice that violates s. 626.9541 or s. 817.234, or an  
 439 | act or practice punishable under s. 624.15, it may administer  
 440 | oaths and affirmations, request the attendance of witnesses or  
 441 | proffering of matter, and collect evidence. The department or  
 442 | its Division of Investigative and Forensic Services shall not

443 | compel the attendance of any person or matter in any such  
 444 | investigation except pursuant to subsection (4).

445 |       (3) If matter that the department or its division seeks to  
 446 | obtain by request is located outside the state, the person so  
 447 | requested may make it available to the division or its  
 448 | representative to examine the matter at the place where it is  
 449 | located. The division may designate representatives, including  
 450 | officials of the state in which the matter is located, to  
 451 | inspect the matter on its behalf, and it may respond to similar  
 452 | requests from officials of other states.

453 |       (4)(a) The department or its division may request that an  
 454 | individual who refuses to comply with any such request be  
 455 | ordered by the circuit court to provide the testimony or matter.  
 456 | The court shall not order such compliance unless the department  
 457 | or its division has demonstrated to the satisfaction of the  
 458 | court that the testimony of the witness or the matter under  
 459 | request has a direct bearing on the commission of a fraudulent  
 460 | insurance act, on a violation of s. 626.9541 or s. 817.234, or  
 461 | on an act or practice punishable under s. 624.15 or is pertinent  
 462 | and necessary to further such investigation.

463 |       (b) Except in a prosecution for perjury, an individual who  
 464 | complies with a court order to provide testimony or matter after  
 465 | asserting a privilege against self-incrimination to which the  
 466 | individual is entitled by law may not be subjected to a criminal  
 467 | proceeding or to a civil penalty with respect to the act  
 468 | concerning which the individual is required to testify or

469 produce relevant matter.

470 (c) In the absence of fraud or bad faith, a person is not  
 471 subject to civil liability for libel, slander, or any other  
 472 relevant tort by virtue of filing reports, without malice, or  
 473 furnishing other information, without malice, required by this  
 474 section or required by the department or division under the  
 475 authority granted in this section, and no civil cause of action  
 476 of any nature shall arise against such person:

477 1. For any information relating to suspected fraudulent  
 478 insurance acts or persons suspected of engaging in such acts  
 479 furnished to or received from law enforcement officials, their  
 480 agents, or employees;

481 2. For any information relating to suspected fraudulent  
 482 insurance acts or persons suspected of engaging in such acts  
 483 furnished to or received from other persons subject to the  
 484 provisions of this chapter;

485 3. For any such information furnished in reports to the  
 486 department, the division, the National Insurance Crime Bureau,  
 487 the National Association of Insurance Commissioners, or any  
 488 local, state, or federal enforcement officials or their agents  
 489 or employees; or

490 4. For other actions taken in cooperation with any of the  
 491 agencies or individuals specified in this paragraph in the  
 492 lawful investigation of suspected fraudulent insurance acts.

493 (d) In addition to the immunity granted in paragraph (c),  
 494 persons identified as designated employees whose

495 | responsibilities include the investigation and disposition of  
 496 | claims relating to suspected fraudulent insurance acts may share  
 497 | information relating to persons suspected of committing  
 498 | fraudulent insurance acts with other designated employees  
 499 | employed by the same or other insurers whose responsibilities  
 500 | include the investigation and disposition of claims relating to  
 501 | fraudulent insurance acts, provided the department has been  
 502 | given written notice of the names and job titles of such  
 503 | designated employees prior to such designated employees sharing  
 504 | information. Unless the designated employees of the insurer act  
 505 | in bad faith or in reckless disregard for the rights of any  
 506 | insured, neither the insurer nor its designated employees are  
 507 | civilly liable for libel, slander, or any other relevant tort,  
 508 | and a civil action does not arise against the insurer or its  
 509 | designated employees:

510 |         1. For any information related to suspected fraudulent  
 511 | insurance acts provided to an insurer; or

512 |         2. For any information relating to suspected fraudulent  
 513 | insurance acts provided to the National Insurance Crime Bureau  
 514 | or the National Association of Insurance Commissioners.

515 |  
 516 | Provided, however, that the qualified immunity against civil  
 517 | liability conferred on any insurer or its designated employees  
 518 | shall be forfeited with respect to the exchange or publication  
 519 | of any defamatory information with third persons not expressly  
 520 | authorized by this paragraph to share in such information.

521 (e) The Chief Financial Officer and any employee or agent  
 522 of the department, commission, office, or division, when acting  
 523 without malice and in the absence of fraud or bad faith, is not  
 524 subject to civil liability for libel, slander, or any other  
 525 relevant tort, and no civil cause of action of any nature exists  
 526 against such person by virtue of the execution of official  
 527 activities or duties of the department, commission, or office  
 528 under this section or by virtue of the publication of any report  
 529 or bulletin related to the official activities or duties of the  
 530 department, division, commission, or office under this section.

531 (f) This section does not abrogate or modify in any way  
 532 any common-law or statutory privilege or immunity heretofore  
 533 enjoyed by any person.

534 (5) The office's and the department's papers, documents,  
 535 reports, or evidence relative to the subject of an investigation  
 536 under this section are confidential and exempt from the  
 537 provisions of s. 119.07(1) until such investigation is completed  
 538 or ceases to be active. For purposes of this subsection, an  
 539 investigation is considered "active" while the investigation is  
 540 being conducted by the office or department with a reasonable,  
 541 good faith belief that it could lead to the filing of  
 542 administrative, civil, or criminal proceedings. An investigation  
 543 does not cease to be active if the office or department is  
 544 proceeding with reasonable dispatch and has a good faith belief  
 545 that action could be initiated by the office or department or  
 546 other administrative or law enforcement agency. After an

547 investigation is completed or ceases to be active, portions of  
 548 records relating to the investigation shall remain exempt from  
 549 the provisions of s. 119.07(1) if disclosure would:

- 550 (a) Jeopardize the integrity of another active
- 551 investigation;
- 552 (b) Impair the safety and soundness of an insurer;
- 553 (c) Reveal personal financial information;
- 554 (d) Reveal the identity of a confidential source;
- 555 (e) Defame or cause unwarranted damage to the good name or
- 556 reputation of an individual or jeopardize the safety of an
- 557 individual; or
- 558 (f) Reveal investigative techniques or procedures.

559 Further, such papers, documents, reports, or evidence relative  
 560 to the subject of an investigation under this section shall not  
 561 be subject to discovery until the investigation is completed or  
 562 ceases to be active. Office, department, or division  
 563 investigators shall not be subject to subpoena in civil actions  
 564 by any court of this state to testify concerning any matter of  
 565 which they have knowledge pursuant to a pending insurance fraud  
 566 investigation by the division.

567 (6) Any person, other than an insurer, agent, or other  
 568 person licensed under the code, or an employee thereof, having  
 569 knowledge or who believes that a fraudulent insurance act or any  
 570 other act or practice which, upon conviction, constitutes a  
 571 felony or a misdemeanor under the code, or under s. 817.234, is  
 572 being or has been committed may send to the Division of

573 Investigative and Forensic Services ~~Insurance Fraud~~ a report or  
 574 information pertinent to such knowledge or belief and such  
 575 additional information relative thereto as the department may  
 576 request. Any professional practitioner licensed or regulated by  
 577 the Department of Business and Professional Regulation, except  
 578 as otherwise provided by law, any medical review committee as  
 579 defined in s. 766.101, any private medical review committee, and  
 580 any insurer, agent, or other person licensed under the code, or  
 581 an employee thereof, having knowledge or who believes that a  
 582 fraudulent insurance act or any other act or practice which,  
 583 upon conviction, constitutes a felony or a misdemeanor under the  
 584 code, or under s. 817.234, is being or has been committed shall  
 585 send to the Division of Investigative and Forensic Services  
 586 ~~Insurance Fraud~~ a report or information pertinent to such  
 587 knowledge or belief and such additional information relative  
 588 thereto as the department may require. The Division of  
 589 Investigative and Forensic Services ~~Insurance Fraud~~ shall review  
 590 such information or reports and select such information or  
 591 reports as, in its judgment, may require further investigation.  
 592 It shall then cause an independent examination of the facts  
 593 surrounding such information or report to be made to determine  
 594 the extent, if any, to which a fraudulent insurance act or any  
 595 other act or practice which, upon conviction, constitutes a  
 596 felony or a misdemeanor under the code, or under s. 817.234, is  
 597 being committed. The Division of Investigative and Forensic  
 598 Services ~~Insurance Fraud~~ shall report any alleged violations of

599 law which its investigations disclose to the appropriate  
 600 licensing agency and state attorney or other prosecuting agency  
 601 having jurisdiction with respect to any such violation, as  
 602 provided in s. 624.310. If prosecution by the state attorney or  
 603 other prosecuting agency having jurisdiction with respect to  
 604 such violation is not begun within 60 days of the division's  
 605 report, the state attorney or other prosecuting agency having  
 606 jurisdiction with respect to such violation shall inform the  
 607 division of the reasons for the lack of prosecution.

608 (7) Division investigators shall have the power to make  
 609 arrests for criminal violations established as a result of  
 610 investigations. Such investigators shall also be considered  
 611 state law enforcement officers for all purposes and shall have  
 612 the power to execute arrest warrants and search warrants; to  
 613 serve subpoenas issued for the examination, investigation, and  
 614 trial of all offenses; and to arrest upon probable cause without  
 615 warrant any person found in the act of violating any of the  
 616 provisions of applicable laws. Investigators empowered to make  
 617 arrests under this section shall be empowered to bear arms in  
 618 the performance of their duties. In such a situation, the  
 619 investigator must be certified in compliance with the provisions  
 620 of s. 943.1395 or must meet the temporary employment or  
 621 appointment exemption requirements of s. 943.131 until  
 622 certified.

623 (8) It is unlawful for any person to resist an arrest  
 624 authorized by this section or in any manner to interfere, either

625 | by abetting or assisting such resistance or otherwise  
 626 | interfering, with division investigators in the duties imposed  
 627 | upon them by law or department rule.

628 |         (9) In recognition of the complementary roles of  
 629 | investigating instances of workers' compensation fraud and  
 630 | enforcing compliance with the workers' compensation coverage  
 631 | requirements under chapter 440, the Department of Financial  
 632 | Services shall prepare and submit a joint performance report to  
 633 | the President of the Senate and the Speaker of the House of  
 634 | Representatives by January 1 of each year. The annual report  
 635 | must include, but need not be limited to:

636 |             (a) The total number of initial referrals received, cases  
 637 | opened, cases presented for prosecution, cases closed, and  
 638 | convictions resulting from cases presented for prosecution by  
 639 | the Bureau of Workers' Compensation Insurance Fraud by type of  
 640 | workers' compensation fraud and circuit.

641 |             (b) The number of referrals received from insurers and the  
 642 | Division of Workers' Compensation and the outcome of those  
 643 | referrals.

644 |             (c) The number of investigations undertaken by the Bureau  
 645 | of Workers' Compensation Insurance Fraud which were not the  
 646 | result of a referral from an insurer or the Division of Workers'  
 647 | Compensation.

648 |             (d) The number of investigations that resulted in a  
 649 | referral to a regulatory agency and the disposition of those  
 650 | referrals.

651 (e) The number and reasons provided by local prosecutors  
 652 or the statewide prosecutor for declining prosecution of a case  
 653 presented by the Bureau of Workers' Compensation Insurance Fraud  
 654 by circuit.

655 (f) The total number of employees assigned to the Bureau  
 656 of Workers' Compensation Insurance Fraud and the Division of  
 657 Workers' Compensation Bureau of Compliance delineated by  
 658 location of staff assigned; and the number and location of  
 659 employees assigned to the Bureau of Workers' Compensation  
 660 Insurance Fraud who were assigned to work other types of fraud  
 661 cases.

662 (g) The average caseload and turnaround time by type of  
 663 case for each investigator and division compliance employee.

664 (h) The training provided during the year to workers'  
 665 compensation fraud investigators and the division's compliance  
 666 employees.

667 Section 15. Subsections (1), (2), and (3) of section  
 668 626.9891, Florida Statutes, are amended to read:

669 626.9891 Insurer anti-fraud investigative units; reporting  
 670 requirements; penalties for noncompliance.-

671 (1) Every insurer admitted to do business in this state  
 672 who in the previous calendar year, at any time during that year,  
 673 had \$10 million or more in direct premiums written shall:

674 (a) Establish and maintain a unit or division within the  
 675 company to investigate possible fraudulent claims by insureds or  
 676 by persons making claims for services or repairs against

677 policies held by insureds; or

678 (b) Contract with others to investigate possible  
 679 fraudulent claims for services or repairs against policies held  
 680 by insureds.

681  
 682 An insurer subject to this subsection shall file with the  
 683 Division of Investigative and Forensic Services ~~Insurance Fraud~~  
 684 of the department on or before July 1, 1996, a detailed  
 685 description of the unit or division established pursuant to  
 686 paragraph (a) or a copy of the contract and related documents  
 687 required by paragraph (b).

688 (2) Every insurer admitted to do business in this state,  
 689 which in the previous calendar year had less than \$10 million in  
 690 direct premiums written, must adopt an anti-fraud plan and file  
 691 it with the Division of Investigative and Forensic Services  
 692 ~~Insurance Fraud~~ of the department on or before July 1, 1996. An  
 693 insurer may, in lieu of adopting and filing an anti-fraud plan,  
 694 comply with the provisions of subsection (1).

695 (3) Each insurers anti-fraud plans shall include:

696 (a) A description of the insurer's procedures for  
 697 detecting and investigating possible fraudulent insurance acts;

698 (b) A description of the insurer's procedures for the  
 699 mandatory reporting of possible fraudulent insurance acts to the  
 700 Division of Investigative and Forensic Services ~~Insurance Fraud~~  
 701 of the department;

702 (c) A description of the insurer's plan for anti-fraud

703 education and training of its claims adjusters or other  
 704 personnel; and

705 (d) A written description or chart outlining the  
 706 organizational arrangement of the insurer's anti-fraud personnel  
 707 who are responsible for the investigation and reporting of  
 708 possible fraudulent insurance acts.

709 Section 16. Subsection (2) of section 626.9892, Florida  
 710 Statutes, is amended to read:

711 626.9892 Anti-Fraud Reward Program; reporting of insurance  
 712 fraud.—

713 (2) The department may pay rewards of up to \$25,000 to  
 714 persons providing information leading to the arrest and  
 715 conviction of persons committing crimes investigated by the  
 716 Division of Investigative and Forensic Services ~~Insurance Fraud~~  
 717 arising from violations of s. 440.105, s. 624.15, s. 626.9541,  
 718 s. 626.989, or s. 817.234.

719 Section 17. Subsection (1) of section 626.9893, Florida  
 720 Statutes, is amended to read:

721 626.9893 Disposition of revenues; criminal or forfeiture  
 722 proceedings.—

723 (1) The Division of Investigative and Forensic Services  
 724 ~~Insurance Fraud~~ of the Department of Financial Services may  
 725 deposit revenues received as a result of criminal proceedings or  
 726 forfeiture proceedings, other than revenues deposited into the  
 727 Department of Financial Services' Federal Law Enforcement Trust  
 728 Fund under s. 17.43, into the Insurance Regulatory Trust Fund.

729 Moneys deposited pursuant to this section shall be separately  
 730 accounted for and shall be used solely for the division to carry  
 731 out its duties and responsibilities.

732 Section 18. Subsection (2) of section 626.9894, Florida  
 733 Statutes, is amended to read:

734 626.9894 Gifts and grants.—

735 (2) All rights to, interest in, and title to such donated  
 736 or granted property shall immediately vest in the Division of  
 737 Investigative and Forensic Services ~~Insurance-Fraud~~ upon  
 738 donation. The division may hold such property in coownership,  
 739 sell its interest in the property, liquidate its interest in the  
 740 property, or dispose of its interest in the property in any  
 741 other reasonable manner.

742 Section 19. Section 626.99278, Florida Statutes, is  
 743 amended to read:

744 626.99278 Viatical provider anti-fraud plan.—Every  
 745 licensed viatical settlement provider and registered life  
 746 expectancy provider must adopt an anti-fraud plan and file it  
 747 with the Division of Investigative and Forensic Services  
 748 ~~Insurance-Fraud~~ of the department. Each anti-fraud plan shall  
 749 include:

750 (1) A description of the procedures for detecting and  
 751 investigating possible fraudulent acts and procedures for  
 752 resolving material inconsistencies between medical records and  
 753 insurance applications.

754 (2) A description of the procedures for the mandatory

755 reporting of possible fraudulent insurance acts and prohibited  
 756 practices set forth in s. 626.99275 to the Division of  
 757 Investigative and Forensic Services ~~Insurance Fraud~~ of the  
 758 department.

759 (3) A description of the plan for anti-fraud education and  
 760 training of its underwriters or other personnel.

761 (4) A written description or chart outlining the  
 762 organizational arrangement of the anti-fraud personnel who are  
 763 responsible for the investigation and reporting of possible  
 764 fraudulent insurance acts and for the investigation of  
 765 unresolved material inconsistencies between medical records and  
 766 insurance applications.

767 (5) For viatical settlement providers, a description of  
 768 the procedures used to perform initial and continuing review of  
 769 the accuracy of life expectancies used in connection with a  
 770 viatical settlement contract or viatical settlement investment.

771 Section 20. Paragraph (k) of subsection (6) of section  
 772 627.351, Florida Statutes, is amended to read:

773 627.351 Insurance risk apportionment plans.—

774 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

775 (k)1. The corporation shall establish and maintain a unit  
 776 or division to investigate possible fraudulent claims by  
 777 insureds or by persons making claims for services or repairs  
 778 against policies held by insureds; or it may contract with  
 779 others to investigate possible fraudulent claims for services or  
 780 repairs against policies held by the corporation pursuant to s.

781 626.9891. The corporation must comply with reporting  
 782 requirements of s. 626.9891. An employee of the corporation  
 783 shall notify the corporation's Office of the Inspector General  
 784 and the Division of Investigative and Forensic Services  
 785 ~~Insurance Fraud~~ within 48 hours after having information that  
 786 would lead a reasonable person to suspect that fraud may have  
 787 been committed by any employee of the corporation.

788 2. The corporation shall establish a unit or division  
 789 responsible for receiving and responding to consumer complaints,  
 790 which unit or division is the sole responsibility of a senior  
 791 manager of the corporation.

792 Section 21. Subsections (4) and (7) of section 627.711,  
 793 Florida Statutes, are amended to read:

794 627.711 Notice of premium discounts for hurricane loss  
 795 mitigation; uniform mitigation verification inspection form.—

796 (4) An authorized mitigation inspector that signs a  
 797 uniform mitigation form, and a direct employee authorized to  
 798 conduct mitigation verification inspections under subsection  
 799 ~~paragraph~~ (3), may not commit misconduct in performing hurricane  
 800 mitigation inspections or in completing a uniform mitigation  
 801 form that causes financial harm to a customer or their insurer;  
 802 or that jeopardizes a customer's health and safety. Misconduct  
 803 occurs when an authorized mitigation inspector signs a uniform  
 804 mitigation verification form that:

805 (a) Falsely indicates that he or she personally inspected  
 806 the structures referenced by the form;

807 (b) Falsely indicates the existence of a feature which  
 808 entitles an insured to a mitigation discount which the inspector  
 809 knows does not exist or did not personally inspect;

810 (c) Contains erroneous information due to the gross  
 811 negligence of the inspector; or

812 (d) Contains a pattern of demonstrably false information  
 813 regarding the existence of mitigation features that could give  
 814 an insured a false evaluation of the ability of the structure to  
 815 withstand major damage from a hurricane endangering the safety  
 816 of the insured's life and property.

817 (7) An insurer, person, or other entity that obtains  
 818 evidence of fraud or evidence that an authorized mitigation  
 819 inspector or an employee authorized to conduct mitigation  
 820 verification inspections under subsection ~~paragraph~~ (3) has made  
 821 false statements in the completion of a mitigation inspection  
 822 form shall file a report with the Division of Investigative and  
 823 Forensic Services ~~Insurance Fraud~~, along with all of the  
 824 evidence in its possession that supports the allegation of fraud  
 825 or falsity. An insurer, person, or other entity making the  
 826 report shall be immune from liability, in accordance with s.  
 827 626.989(4), for any statements made in the report, during the  
 828 investigation, or in connection with the report. The Division of  
 829 Investigative and Forensic Services ~~Insurance Fraud~~ shall issue  
 830 an investigative report if it finds that probable cause exists  
 831 to believe that the authorized mitigation inspector, or an  
 832 employee authorized to conduct mitigation verification

833 inspections under subsection ~~paragraph~~ (3), made intentionally  
 834 false or fraudulent statements in the inspection form. Upon  
 835 conclusion of the investigation and a finding of probable cause  
 836 that a violation has occurred, the Division of Investigative and  
 837 Forensic Services ~~Insurance Fraud~~ shall send a copy of the  
 838 investigative report to the office and a copy to the agency  
 839 responsible for the professional licensure of the authorized  
 840 mitigation inspector, whether or not a prosecutor takes action  
 841 based upon the report.

842 Section 22. Paragraph (i) of subsection (4) and subsection  
 843 (14) of section 627.736, Florida Statutes, are amended to read:

844 627.736 Required personal injury protection benefits;  
 845 exclusions; priority; claims.—

846 (4) PAYMENT OF BENEFITS.—Benefits due from an insurer  
 847 under ss. 627.730–627.7405 are primary, except that benefits  
 848 received under any workers' compensation law must be credited  
 849 against the benefits provided by subsection (1) and are due and  
 850 payable as loss accrues upon receipt of reasonable proof of such  
 851 loss and the amount of expenses and loss incurred which are  
 852 covered by the policy issued under ss. 627.730–627.7405. If the  
 853 Agency for Health Care Administration provides, pays, or becomes  
 854 liable for medical assistance under the Medicaid program related  
 855 to injury, sickness, disease, or death arising out of the  
 856 ownership, maintenance, or use of a motor vehicle, the benefits  
 857 under ss. 627.730–627.7405 are subject to the Medicaid program.  
 858 However, within 30 days after receiving notice that the Medicaid

859 program paid such benefits, the insurer shall repay the full  
 860 amount of the benefits to the Medicaid program.

861 (i) If an insurer has a reasonable belief that a  
 862 fraudulent insurance act, for the purposes of s. 626.989 or s.  
 863 817.234, has been committed, the insurer shall notify the  
 864 claimant, in writing, within 30 days after submission of the  
 865 claim that the claim is being investigated for suspected fraud.  
 866 Beginning at the end of the initial 30-day period, the insurer  
 867 has an additional 60 days to conduct its fraud investigation.  
 868 Notwithstanding subsection (10), no later than 90 days after the  
 869 submission of the claim, the insurer must deny the claim or pay  
 870 the claim with simple interest as provided in paragraph (d).  
 871 Interest shall be assessed from the day the claim was submitted  
 872 until the day the claim is paid. All claims denied for suspected  
 873 fraudulent insurance acts shall be reported to the Division of  
 874 Investigative and Forensic Services ~~Insurance Fraud~~.

875 (14) FRAUD ADVISORY NOTICE.—Upon receiving notice of a  
 876 claim under this section, an insurer shall provide a notice to  
 877 the insured or to a person for whom a claim for reimbursement  
 878 for diagnosis or treatment of injuries has been filed, advising  
 879 that:

880 (a) Pursuant to s. 626.9892, the Department of Financial  
 881 Services may pay rewards of up to \$25,000 to persons providing  
 882 information leading to the arrest and conviction of persons  
 883 committing crimes investigated by the Division of Investigative  
 884 and Forensic Services ~~Insurance Fraud~~ arising from violations of

885 | s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234.

886 |       (b) Solicitation of a person injured in a motor vehicle  
 887 | crash for purposes of filing personal injury protection or tort  
 888 | claims could be a violation of s. 817.234, s. 817.505, or the  
 889 | rules regulating The Florida Bar and should be immediately  
 890 | reported to the Division of Investigative and Forensic Services  
 891 | ~~Insurance Fraud~~ if such conduct has taken place.

892 |       Section 23. Paragraphs (b) and (c) of subsection (1) of  
 893 | section 627.7401, Florida Statutes, are amended to read:

894 |       627.7401 Notification of insured's rights.—

895 |       (1) The commission, by rule, shall adopt a form for the  
 896 | notification of insureds of their right to receive personal  
 897 | injury protection benefits under the Florida Motor Vehicle No-  
 898 | Fault Law. Such notice shall include:

899 |       (b) An advisory informing insureds that:

900 |       1. Pursuant to s. 626.9892, the Department of Financial  
 901 | Services may pay rewards of up to \$25,000 to persons providing  
 902 | information leading to the arrest and conviction of persons  
 903 | committing crimes investigated by the Division of Investigative  
 904 | and Forensic Services ~~Insurance Fraud~~ arising from violations of  
 905 | s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234.

906 |       2. Pursuant to s. 627.736(5)(e)1., if the insured notifies  
 907 | the insurer of a billing error, the insured may be entitled to a  
 908 | certain percentage of a reduction in the amount paid by the  
 909 | insured's motor vehicle insurer.

910 |       (c) A notice that solicitation of a person injured in a

911 | motor vehicle crash for purposes of filing personal injury  
 912 | protection or tort claims could be a violation of s. 817.234, s  
 913 | 817.505, or the rules regulating The Florida Bar and should be  
 914 | immediately reported to the Division of Investigative and  
 915 | Forensic Services ~~Insurance Fraud~~ if such conduct has taken  
 916 | place.

917 |       Section 24. Subsection (2) of section 631.156, Florida  
 918 | Statutes, is amended to read:

919 |           631.156 Investigation by the department; scope of  
 920 | authority; sharing of materials.—

921 |           (2) The department may provide documents, books, and  
 922 | records; other investigative products, work product, and  
 923 | analysis; and copies of any or all of such materials to the  
 924 | Division of Investigative and Forensic Services ~~Insurance Fraud~~  
 925 | or any other appropriate government agency. The sharing of these  
 926 | materials ~~does shall~~ not waive any work product or other  
 927 | privilege otherwise applicable under law.

928 |       Section 25. Subsection (4) of section 641.30, Florida  
 929 | Statutes, is amended to read:

930 |           641.30 Construction and relationship to other laws.—

931 |           (4) The Division of Investigative and Forensic Services  
 932 | ~~Insurance Fraud~~ of the department is vested with all powers  
 933 | granted to it under the Florida Insurance Code with respect to  
 934 | the investigation of any violation of this part.

935 |       Section 26. Paragraph (a) of subsection (2) of section  
 936 | 282.709, Florida Statutes, is amended to read:

937 | 282.709 State agency law enforcement radio system and  
 938 | interoperability network.—

939 | (2) The Joint Task Force on State Agency Law Enforcement  
 940 | Communications is created adjunct to the department to advise  
 941 | the department of member-agency needs relating to the planning,  
 942 | designing, and establishment of the statewide communication  
 943 | system.

944 | (a) The Joint Task Force on State Agency Law Enforcement  
 945 | Communications shall consist of the following members:

946 | 1. A representative of the Division of Alcoholic Beverages  
 947 | and Tobacco of the Department of Business and Professional  
 948 | Regulation who shall be appointed by the secretary of the  
 949 | department.

950 | 2. A representative of the Division of Florida Highway  
 951 | Patrol of the Department of Highway Safety and Motor Vehicles  
 952 | who shall be appointed by the executive director of the  
 953 | department.

954 | 3. A representative of the Department of Law Enforcement  
 955 | who shall be appointed by the executive director of the  
 956 | department.

957 | 4. A representative of the Fish and Wildlife Conservation  
 958 | Commission who shall be appointed by the executive director of  
 959 | the commission.

960 | 5. A representative of the Department of Corrections who  
 961 | shall be appointed by the secretary of the department.

962 | 6. A representative of the Division of Investigative and

963 | Forensic Services ~~State Fire Marshal~~ of the Department of  
 964 | Financial Services who shall be appointed by the Chief Financial  
 965 | Officer ~~State Fire Marshal~~.

966 |         7. A representative of the Department of Agriculture and  
 967 | Consumer Services who shall be appointed by the Commissioner of  
 968 | Agriculture.

969 |         Section 27. Subsection (3) of section 552.113, Florida  
 970 | Statutes, is amended to read:

971 |         552.113 Reports of thefts, illegal use, or illegal  
 972 | possession.—

973 |         (3) The Division of Investigative and Forensic Services  
 974 | shall investigate, or be certain that a qualified law  
 975 | enforcement agency investigates, the cause and circumstances of  
 976 | each theft, illegal use, or illegal possession of explosives  
 977 | which occurs within the state. A report of each such  
 978 | investigation shall be made and maintained by the Division of  
 979 | Investigative and Forensic Services.

980 |         Section 28. Subsections (1) and (2) of section 552.21,  
 981 | Florida Statutes, are amended to read:

982 |         552.21 Confiscation and disposal of explosives.—

983 |         (1) Whenever the department ~~division~~ shall have reason to  
 984 | believe that any person is or has been violating the provisions  
 985 | of this chapter or any rules or regulations adopted and  
 986 | promulgated pursuant thereto, the department ~~division~~ may,  
 987 | without further process of law, confiscate the explosives in  
 988 | question and cause them to be stored in a safe manner, or, if

989 | any explosives are deemed by the department ~~division~~ to be in  
 990 | such a state or condition as to constitute a hazard to life or  
 991 | property, the department ~~division~~ may dispose of such explosives  
 992 | without further process of law. The department ~~division~~ is  
 993 | authorized to dispose of any abandoned explosives that it deems  
 994 | to be hazardous to life or property.

995 |         (2) If the person so charged is found guilty of violating  
 996 | ~~the provisions of~~ this chapter or any rule or regulation adopted  
 997 | pursuant thereto with regard to the possession, handling, or  
 998 | storage of explosives, the department ~~division~~ is authorized to  
 999 | dispose of the confiscated materials in such a way as it shall  
 1000 | deem equitable.

1001 |         Section 29. Paragraph (c) of subsection (6) of section  
 1002 | 633.112, Florida Statutes, is amended to read:

1003 |         633.112 State Fire Marshal; hearings; investigations;  
 1004 | recordkeeping and reports; subpoenas of witnesses; orders of  
 1005 | circuit court.-

1006 |         (6) Upon request, the State Fire Marshal shall investigate  
 1007 | the cause, origin, and circumstances of fires and explosions  
 1008 | occurring in this state wherein property has been damaged or  
 1009 | destroyed and there is probable cause to believe that the fire  
 1010 | or explosion was the result of carelessness or design.

1011 |         (c) The State Fire Marshal ~~division~~ shall adopt rules to  
 1012 | assist local fire officials and law enforcement officers in  
 1013 | determining the established responsibilities with respect to the  
 1014 | initial or preliminary assessment of fire and explosion scenes,

1015 and the determination of whether probable cause exists to refer  
 1016 such scenes to the State Fire Marshal for an investigation.

1017 Section 30. Subsection (1) of section 633.114, Florida  
 1018 Statutes, is amended to read:

1019 633.114 State Fire Marshal agents; authority; duties;  
 1020 compensation.—

1021 (1) The State Fire Marshal shall appoint such agents,  
 1022 including agents of the Division of Investigative and Forensic  
 1023 Services, as may be necessary to carry out effectively this  
 1024 chapter, who shall be reimbursed for travel expenses as provided  
 1025 in s. 112.061, in addition to their salary, when traveling or  
 1026 making investigations in the performance of their duties. Such  
 1027 agents, including agents of the Division of Investigative and  
 1028 Forensic Services, shall be at all times under the direction and  
 1029 control of the State Fire Marshal, who shall fix their  
 1030 compensation, and all orders shall be issued in the State Fire  
 1031 Marshal's name and by her or his authority.

1032 Section 31. Section 633.122, Florida Statutes, is amended  
 1033 to read:

1034 633.122 Impersonating State Fire Marshal, firefighter,  
 1035 volunteer firefighter, or firesafety inspector; criminal  
 1036 penalties.—A person who falsely assumes or pretends to be the  
 1037 State Fire Marshal, an agent of the State Fire Marshal ~~division~~,  
 1038 a firefighter, a volunteer firefighter, or a firesafety  
 1039 inspector by identifying herself or himself as the State Fire  
 1040 Marshal, an agent of the State Fire Marshal ~~division~~, a

1041 firefighter, a volunteer firefighter, or a firesafety inspector  
 1042 by wearing a uniform or presenting or displaying a badge as  
 1043 credentials that would cause a reasonable person to believe that  
 1044 she or he is a State Fire Marshal, an agent of the State Fire  
 1045 Marshal ~~division~~, a firefighter, a volunteer firefighter, or  
 1046 firesafety inspector commits a felony of the third degree,  
 1047 punishable as provided in ss. 775.082 and 775.083 or, if the  
 1048 impersonation occurs during the commission of a separate felony  
 1049 by that person, commits a felony of the first degree, punishable  
 1050 as provided in ss. 775.082 and 775.083.

1051 Section 32. Paragraph (b) of subsection (1) of section  
 1052 633.126, Florida Statutes, is amended to read:

1053 633.126 Investigation of fraudulent insurance claims and  
 1054 crimes; immunity of insurance companies supplying information.—

1055 (1)

1056 (b) The State Fire Marshal or an agent appointed pursuant  
 1057 to s. 633.114, an agent of the Division of Investigative and  
 1058 Forensic Services, any law enforcement officer as defined in s.  
 1059 111.065, any law enforcement officer of a federal agency, or any  
 1060 fire service provider official who is engaged in the  
 1061 investigation of a fire or explosion loss may request any  
 1062 insurance company or its agent, adjuster, employee, or attorney,  
 1063 investigating a claim under an insurance policy or contract with  
 1064 respect to a fire or explosion to release any information  
 1065 whatsoever in the possession of the insurance company or its  
 1066 agent, adjuster, employee, or attorney relative to a loss from

1067 that fire or explosion. The insurance company shall release the  
 1068 available information to and cooperate with any official  
 1069 authorized to request such information pursuant to this section.  
 1070 The information shall include, but shall not be limited to:

- 1071 1. Any insurance policy relevant to a loss under
- 1072 investigation and any application for such a policy.
- 1073 2. Any policy premium payment records.
- 1074 3. The records, reports, and all material pertaining to
- 1075 any previous claims made by the insured with the reporting
- 1076 company.
- 1077 4. Material relating to the investigation of the loss,
- 1078 including statements of a person, proof of loss, and other
- 1079 relevant evidence.
- 1080 5. Memoranda, notes, and correspondence relating to the
- 1081 investigation of the loss in the possession of the insurance
- 1082 company or its agents, adjusters, employees, or attorneys.

1083 Section 33. Subsection (5) of section 633.422, Florida  
 1084 Statutes, is amended to read:

1085 633.422 Firefighters; supplemental compensation.—

1086 (5) APPLICABILITY.—For the purposes of this section, the  
 1087 department ~~division~~ shall be considered a fire service provider  
 1088 responsible for the payment of supplemental compensation in  
 1089 accordance with this section to firefighters employed full time  
 1090 by the department ~~division~~.

1091 Section 34. Subsection (7) of section 633.508, Florida  
 1092 Statutes, is amended to read:

1093           633.508 Workplace safety; rulemaking authority; division  
 1094 authority.-

1095           (7) The department ~~division~~ shall:

1096           (a) Investigate and prescribe by rule what safety devices,  
 1097 safeguards, or other means of protection must be adopted for the  
 1098 prevention of accidents and injuries in every firefighter  
 1099 employee place of employment or at any fire scene; determine  
 1100 what suitable devices, safeguards, or other means of protection  
 1101 for the prevention of occupational diseases must be adopted or  
 1102 followed in any or all such firefighter places of employment or  
 1103 at any emergency fire scene; and adopt reasonable rules for the  
 1104 prevention of accidents, the safety, protection, and security of  
 1105 firefighter employees engaged in interior firefighting, and the  
 1106 prevention of occupational diseases.

1107           (b) Ascertain, fix, and order such reasonable standards  
 1108 and rules for the construction, repair, and maintenance of  
 1109 firefighter employee places of employment so as to render them  
 1110 safe. Such rules and standards shall be adopted in accordance  
 1111 with chapter 120.

1112           (c) Adopt rules prescribing recordkeeping responsibilities  
 1113 for firefighter employers, which may include maintaining a log  
 1114 and summary of occupational injuries, diseases, and illnesses,  
 1115 for producing on request a notice of injury and firefighter  
 1116 employee accident investigation records, and prescribing a  
 1117 retention schedule for such records.

1118           Section 35. Section 633.512, Florida Statutes, is amended

1119 to read:

1120           633.512 Compliance.—Failure of a firefighter employer or  
 1121 an insurer to comply with this part, or with any rules adopted  
 1122 under this part, constitutes grounds for the department ~~division~~  
 1123 to seek remedies, including injunctive relief, by making  
 1124 appropriate filings with the circuit court.

1125           Section 36. Subsection (1) of section 633.518, Florida  
 1126 Statutes, is amended to read:

1127           633.518 Studies, investigations, inspections, or inquiries  
 1128 by the division; refusal to admit; penalty.—

1129           (1) The department ~~division~~ shall make studies,  
 1130 investigations, inspections, or inquiries with respect to  
 1131 compliance with this part or any rules authorized under this  
 1132 part and the causes of firefighter employee injuries, illnesses,  
 1133 safety-based complaints, or Line of Duty Deaths (LODD) as  
 1134 defined in rule in firefighter employee places of employment and  
 1135 shall make such recommendations to the Legislature and  
 1136 firefighter employers and insurers as the department ~~division~~  
 1137 considers proper to prevent or reduce future occurrences. In  
 1138 making such studies, investigations, inspections, or inquiries,  
 1139 the department ~~division~~ may cooperate with any agency of the  
 1140 United States charged with the duty of enforcing any law  
 1141 securing safety against injury in any place of firefighter  
 1142 employment covered by this part or any agency or department of  
 1143 the state engaged in enforcing any law to ensure safety for  
 1144 firefighter employees.

1145 Section 37. Subsection (3) of section 791.013, Florida  
 1146 Statutes, is amended to read:

1147 791.013 Testing and approval of sparklers; penalties.-

1148 (3) For purposes of the testing requirement by this  
 1149 section, the division shall perform such tests as are necessary  
 1150 to determine compliance with the performance standards in the  
 1151 definition of sparklers, pursuant to s. 791.01. The State Fire  
 1152 Marshal shall adopt, by rule, procedures for testing products to  
 1153 determine compliance with this chapter. The Division of  
 1154 Investigative and Forensic Services shall dispose of any samples  
 1155 which remain after testing.

1156 Section 38. Paragraphs (b), (c), and (d) of subsection (7)  
 1157 of section 538.32, Florida Statutes, are amended to read:

1158 538.32 Registration, transaction, and recordkeeping  
 1159 requirements; penalties.-

1160 (7)

1161 (b) Alternatively, a secondhand dealer must give written  
 1162 notice to the seller, by United States mail or e-mail if an e-  
 1163 mail address is provided by the seller, that information  
 1164 otherwise required to be given by the seller under subsection  
 1165 (2) has not been provided by the seller to the secondhand  
 1166 dealer. Notice of the deficient information must be sent by the  
 1167 secondhand dealer no later than 10 days after the transaction is  
 1168 received by the secondhand dealer. The secondhand dealer must  
 1169 specify in the notice that:

1170 1. The seller must provide the missing information or must

1171 request the return of the property from the secondhand dealer  
 1172 within 30 days after receiving the notice from the secondhand  
 1173 dealer; and

1174 2. The failure of the seller to provide the missing  
 1175 information or request return of the property within the  
 1176 applicable 30-day time period shall result in abandonment of the  
 1177 seller's property to the Division ~~Bureau~~ of Unclaimed Property  
 1178 of the Department of Financial Services pursuant to chapter 717.

1179 (c) If the seller fails to remedy the deficiency in  
 1180 information or request return of the property within 30 days  
 1181 after receiving the notice, the seller's property is deemed  
 1182 abandoned and is relinquished to the Division ~~Bureau~~ of  
 1183 Unclaimed Property pursuant to chapter 717 if the property's  
 1184 true market value is greater than \$50 as defined in chapter 717.

1185 (d) Within 24 hours after the expiration of the 30-day  
 1186 hold period for the property, the secondhand dealer must notify  
 1187 the appropriate law enforcement agency of the abandonment of the  
 1188 property by electronic transmission or by sending a copy of the  
 1189 completed form authorized by chapter 717 to the Department of  
 1190 Financial Services, Division ~~Bureau~~ of Unclaimed Property.

1191 Section 39. Subsection (1) of section 717.1241, Florida  
 1192 Statutes, is amended to read:

1193 717.1241 Conflicting claims.—

1194 (1) When conflicting claims have been received by the  
 1195 department for the same unclaimed property account or accounts,  
 1196 the property shall be remitted in accordance with the claim

1197 | filed by the person as follows, notwithstanding the withdrawal  
 1198 | of a claim:

1199 |       (a) To the person submitting the first claim received by  
 1200 | the Division ~~Bureau~~ of Unclaimed Property of the department that  
 1201 | is complete or made complete.

1202 |       (b) If a claimant's claim and a claimant's  
 1203 | representative's claim are received by the Division ~~Bureau~~ of  
 1204 | Unclaimed Property of the department on the same day and both  
 1205 | claims are complete, to the claimant.

1206 |       (c) If a buyer's claim and a claimant's claim or a  
 1207 | claimant's representative's claim are received by the Division  
 1208 | ~~Bureau~~ of Unclaimed Property of the department on the same day  
 1209 | and the claims are complete, to the buyer.

1210 |       (d) As between two or more claimant's representative's  
 1211 | claims received by the Division ~~Bureau~~ of Unclaimed Property of  
 1212 | the department that are complete or made complete on the same  
 1213 | day, to the claimant's representative who has agreed to receive  
 1214 | the lowest fee. If the two or more claimant's representatives  
 1215 | whose claims received by the Division ~~Bureau~~ of Unclaimed  
 1216 | Property of the department were complete or made complete on the  
 1217 | same day are charging the same lowest fee, the fee shall be  
 1218 | divided equally between the claimant's representatives.

1219 |       (e) If more than one buyer's claim received by the  
 1220 | Division ~~Bureau~~ of Unclaimed Property of the department is  
 1221 | complete or made complete on the same day, the department shall  
 1222 | remit the unclaimed property to the buyer who paid the highest

1223 amount to the seller. If the buyers paid the same amount to the  
 1224 seller, the department shall remit the unclaimed property to the  
 1225 buyers divided in equal amounts.

1226 Section 40. Section 717.1323, Florida Statutes, is amended  
 1227 to read:

1228 717.1323 Prohibited practice.—A ~~No~~ person may not  
 1229 knowingly enter false information onto the Internet website of  
 1230 the Division ~~Bureau~~ of Unclaimed Property.

1231 Section 41. Subsection (2) and paragraph (a) of subsection  
 1232 (3) of section 717.135, Florida Statutes, are amended to read:

1233 717.135 Power of attorney to recover reported property in  
 1234 the custody of the department.—

1235 (2) A power of attorney described in subsection (1) must:

1236 (a) Limit the fees and costs for services to 20 percent  
 1237 per unclaimed property account held by the department. Fees and  
 1238 costs for cash accounts shall be based on the value of the  
 1239 property at the time the power of attorney is signed by the  
 1240 claimant. Fees and costs for accounts containing securities or  
 1241 other intangible ownership interests, which securities or  
 1242 interests are not converted to cash, shall be based on the  
 1243 purchase price of the security as quoted on a national exchange  
 1244 or other market on which the property is regularly traded at the  
 1245 time the securities or other ownership interest is remitted to  
 1246 the claimant or the claimant's representative. Fees and costs  
 1247 for tangible property or safe-deposit box accounts shall be  
 1248 based on the value of the tangible property or contents of the

1249 safe-deposit box at the time the ownership interest is  
 1250 transferred or remitted to the claimant. Total fees and costs on  
 1251 any single account owned by a natural person residing in this  
 1252 country must not exceed \$1,000; or

1253 (b) Fully disclose that the property is held by the  
 1254 Division ~~Bureau~~ of Unclaimed Property of the Department of  
 1255 Financial Services pursuant to this chapter, the mailing address  
 1256 of the division ~~bureau~~, the Internet address of the division  
 1257 ~~bureau~~, the person or name of the entity that held the property  
 1258 prior to the property becoming unclaimed, the date of the  
 1259 holder's last contact with the owner, if known, and the  
 1260 approximate value of the property, and identify which of the  
 1261 following categories of unclaimed property the claimant's  
 1262 representative is seeking to recover, as reported by the holder:

- 1263 1. Cash accounts.
- 1264 2. Stale dated checks.
- 1265 3. Life insurance or annuity contract assets.
- 1266 4. Utility deposits.
- 1267 5. Securities or other interests in business associations.
- 1268 6. Wages.
- 1269 7. Accounts receivable.
- 1270 8. Contents of safe-deposit boxes.

1271  
 1272 This subsection shall not apply if probate proceedings must be  
 1273 initiated on behalf of the claimant for an estate that has never  
 1274 been probated or if the unclaimed property is being claimed by a

1275 person outside of the United States.

1276 (3) (a) A power of attorney described in paragraph (2) (b)  
1277 must state in 12-point type or greater in the order indicated  
1278 with the blank spaces accurately completed:

1279

1280 FULL DISCLOSURE STATEMENT

1281

1282 The property is currently held by the State of Florida  
1283 Department of Financial Services, Division ~~Bureau~~ of  
1284 Unclaimed Property, pursuant to chapter 717, Florida  
1285 Statutes. The mailing address of the Division ~~Bureau~~  
1286 of Unclaimed Property is ..... The Internet  
1287 address of the Division ~~Bureau~~ of Unclaimed Property  
1288 is .....

1289

1290 The property was remitted by: .....

1291

1292 Date of last contact: .....

1293

1294 Property category: .....

1295

1296 Section 42. Subsection (2) of section 717.1351, Florida  
1297 Statutes, is amended to read:

1298 717.1351 Acquisition of unclaimed property.—

1299 (2) All contracts to acquire ownership of or entitlement  
1300 to unclaimed property from the person or persons entitled to the

1301 unclaimed property must be in 10-point type or greater and must:

1302 (a) Have a purchase price that discounts the value of the  
 1303 unclaimed property at the time the agreement is executed by the  
 1304 seller at no greater than 20 percent per account held by the  
 1305 department. An unclaimed property account must not be discounted  
 1306 in excess of \$1,000. However, the \$1,000 discount limitation  
 1307 does not apply if probate proceedings must be initiated on  
 1308 behalf of the seller for an estate that has never been probated  
 1309 or if the seller of the unclaimed property is not a natural  
 1310 person or is a person outside the United States; or

1311 (b) Fully disclose that the property is held by the  
 1312 Division Bureau of Unclaimed Property of the Department of  
 1313 Financial Services pursuant to this chapter, the mailing address  
 1314 of the division bureau, the Internet address of the division  
 1315 bureau, the person or name of the entity that held the property  
 1316 prior to the property becoming unclaimed, the date of the  
 1317 holder's last contact with the owner, if known, and the  
 1318 approximate value of the property, and identify which of the  
 1319 following categories of unclaimed property the buyer is seeking  
 1320 to purchase as reported by the holder:

- 1321 1. Cash accounts.
- 1322 2. Stale dated checks.
- 1323 3. Life insurance or annuity contract assets.
- 1324 4. Utility deposits.
- 1325 5. Securities or other interests in business associations.
- 1326 6. Wages.

- 1327 | 7. Accounts receivable.
- 1328 | 8. Contents of safe-deposit boxes.

1329 |  
 1330 | The purchase agreement described in this paragraph must state in  
 1331 | 12-point type or greater in the order indicated with the blank  
 1332 | spaces accurately completed:

1333 |  
 1334 | FULL DISCLOSURE STATEMENT

1335 |  
 1336 | The property is currently held by the State of Florida  
 1337 | Department of Financial Services, Division ~~Bureau~~ of  
 1338 | Unclaimed Property, pursuant to chapter 717, Florida  
 1339 | Statutes. The mailing address of the Division ~~Bureau~~  
 1340 | of Unclaimed Property is ..... The Internet  
 1341 | address of the Division ~~Bureau~~ of Unclaimed Property  
 1342 | is .....

1343 |  
 1344 | The property was remitted by: .....

1345 |  
 1346 | Date of last contact: .....

1347 |  
 1348 | Property category: .....

1349 |  
 1350 | Immediately above the signature line for the seller, the  
 1351 | purchase agreement described in this paragraph must state in 12-  
 1352 | point type or greater:

1353  
1354  
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Seller agrees, by signing below, that the FULL DISCLOSURE STATEMENT has been read and fully understood.

Section 43. Paragraphs (a) and (b) of subsection (5) of section 717.1400, Florida Statutes, are amended to read:

717.1400 Registration.—

(5) If a material change in the status of a registration occurs, a registrant must, within 30 days, provide the department with the updated documentation and information in writing. Material changes include, but are not limited to: a designated agent or employee ceasing to act on behalf of the designating person, a surrender, suspension, or revocation of a license, or a license renewal.

(a) If a designated agent or employee ceases to act on behalf of the person who has designated the agent or employee to act on such person's behalf, the designating person must, within 30 days, inform the Division ~~Bureau~~ of Unclaimed Property in writing of the termination of agency or employment.

(b) If a registrant surrenders the registrant's license or the license is suspended or revoked, the registrant must, within 30 days, inform the division ~~bureau~~ in writing of the surrender, suspension, or revocation.

Section 44. Paragraphs (k) and (l) of subsection (6) of section 932.7055, Florida Statutes, are amended to read:

932.7055 Disposition of liens and forfeited property.—

1379 (6) If the seizing agency is a state agency, all remaining  
 1380 proceeds shall be deposited into the General Revenue Fund.

1381 However, if the seizing agency is:

1382 (k) The Division of Investigative and Forensic Services  
 1383 ~~State Fire Marshal~~ in the Department of Financial Services, the  
 1384 proceeds accrued under the Florida Contraband Forfeiture Act  
 1385 shall be deposited into the Insurance Regulatory Trust Fund to  
 1386 be used for the purposes of arson suppression, arson  
 1387 investigation, and the funding of anti-arson rewards.

1388 (l) The Division of Investigative and Forensic Services  
 1389 ~~Insurance Fraud~~ of the Department of Financial Services, the  
 1390 proceeds accrued pursuant to ~~the provisions of~~ the Florida  
 1391 Contraband Forfeiture Act shall be deposited into the Insurance  
 1392 Regulatory Trust Fund as provided in s. 626.9893 or into the  
 1393 Department of Financial Services' Federal Law Enforcement Trust  
 1394 Fund as provided in s. 17.43, as applicable.

1395 Section 45. This act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Government Operations  
2 Appropriations Subcommittee  
3 Representative Renner offered the following:

**Amendment (with title amendment)**

Remove lines 131-190 and insert:

7 (e) The Division of Investigative and Forensic Services which  
8 shall function as a criminal justice agency for purposes of ss.  
9 943.045-943.08. The division may conduct investigations within  
10 or outside of this state as it deems necessary. If, during an  
11 investigation, the division has reason to believe that any  
12 criminal law of this state has or may have been violated, it  
13 shall refer any records tending to show such violation to state  
14 or federal law enforcement or prosecutorial agencies and shall  
15 provide investigative assistance to those agencies as required.  
16 The division shall include the following bureaus and office:

- 17 1. The Bureau of Forensic Services;

## Amendment No. 1

18        2. The Bureau of Fire and Arson Investigations; and

19        3. The Office of Fiscal Integrity, which shall have a  
20 separate budget Insurance Fraud.

21        (g) (f) The Division of Rehabilitation and Liquidation.

22        (d) (g) The Division of Insurance Agent and Agency  
23 Services.

24        (b) (h) The Division of Consumer Services.

25        ~~1. The Division of Consumer Services shall perform the~~  
26 ~~following functions concerning products or services regulated by~~  
27 ~~the department or by the Office of Insurance Regulation:~~

28        ~~a. Receive inquiries and complaints from consumers.~~

29        ~~b. Prepare and disseminate such information as the~~  
30 ~~department deems appropriate to inform or assist consumers.~~

31        ~~c. Provide direct assistance and advocacy for consumers~~  
32 ~~who request such assistance or advocacy.~~

33        ~~d. With respect to apparent or potential violations of law~~  
34 ~~or applicable rules by a person or entity licensed by the~~  
35 ~~department or office, report apparent or potential violations to~~  
36 ~~the office or the appropriate division of the department, which~~  
37 ~~may take such further action as it deems appropriate.~~

38        ~~e. Designate an employee of the division as primary~~  
39 ~~contact for consumers on issues relating to sinkholes.~~

40        ~~2. Any person licensed or issued a certificate of~~  
41 ~~authority by the department or by the Office of Insurance~~  
42 ~~Regulation shall respond, in writing, to the Division of~~  
43 ~~Consumer Services within 20 days after receipt of a written~~

Amendment No. 1

44 ~~request for information from the division concerning a consumer~~  
45 ~~complaint. The response must address the issues and allegations~~  
46 ~~raised in the complaint. The division may impose an~~  
47 ~~administrative penalty for failure to comply with this~~  
48 ~~subparagraph of up to \$2,500 per violation upon any entity~~  
49 ~~licensed by the department or the office and \$250 for the first~~  
50 ~~violation, \$500 for the second violation, and up to \$1,000 per~~  
51 ~~violation thereafter upon any individual licensed by the~~  
52 ~~department or the office.~~

53 ~~3. The department may adopt rules to administer this~~  
54 ~~paragraph.~~

55 ~~4. The powers, duties, and responsibilities expressed or~~  
56 ~~granted in this paragraph do not limit the powers, duties, and~~  
57 ~~responsibilities of the Department of Financial Services, the~~  
58 ~~Financial Services Commission, the Office of Insurance~~  
59 ~~Regulation, or the Office of Financial Regulation set forth~~  
60 ~~elsewhere in the Florida Statutes.~~

61 ~~(l)(i) The Division of Workers' Compensation.~~

62 ~~(m)(j) The Division of Administration.~~

63 ~~(k) The Division of Legal Services.~~

64 ~~(l) The Division of Information Systems.~~

65 ~~(n)(m) The Office of Insurance Consumer Advocate.~~

66 ~~(c)(n) The Division of Funeral, Cemetery, and Consumer~~  
67 ~~Services.~~

68 ~~(f)(e) The Division of Public Assistance Fraud.~~

Amendment No. 1

69 Section 4. Notwithstanding the expiration date in section  
70 41 of chapter 2015-222, Laws of Florida, section 624.502,  
71 Florida Statutes, as amended by chapter 2013-41, Laws of  
72 Florida, is reenacted and amended to read:

73 624.502 Service of process fee.—In all instances as  
74 provided in any section of the insurance code and s. 48.151(3)  
75 in which service of process is authorized to be made upon the  
76 Chief Financial Officer or the director of the office, the party  
77 requesting service ~~plaintiff~~ shall pay to the department or  
78 office a fee of \$15 for such service of process on an authorized  
79 or unauthorized insurer, which fee shall be deposited into the  
80 Administrative Trust Fund.

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83

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

84

Remove line 18 and insert:

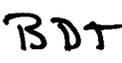
85

construction; reenacting and amending s.624.502, F.S.; providing  
86 that a party requesting service of process shall pay a specified  
87 fee to the department or Office of Insurance Regulation for such  
88 service; amending ss. 16.59, 400.9935, 409.91212,



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1163 Insurer Regulatory Reporting  
**SPONSOR(S):** Insurance & Banking Subcommittee; Hager  
**TIED BILLS:** CS/HB 1165 **IDEN./SIM. BILLS:** SB 1422

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Bauer	Luczynski
2) Government Operations Appropriations Subcommittee		Keith 	Topp 
3) Regulatory Affairs Committee			

**SUMMARY ANALYSIS**

The Office of Insurance Regulation (OIR) is responsible for all activities concerning insurers and other risk bearing entities, including solvency oversight. Solvency regulation is designed to protect policyholders against the risk that insurers will not be able to meet their financial responsibilities. Regulation includes the initial and ongoing requirements for an insurer's authority to transact insurance in this state, monitoring the financial condition of insurers through examinations, audits, and procedures for the administrative receivership of an insurance company if found to be in an unsound financial condition or insolvent. Additionally, the OIR is a member of the National Association of Insurance Commissioners (NAIC), an organization consisting of state insurance regulators that establish standards and best practices, conduct peer reviews, and coordinate their regulatory oversight. As a member of the NAIC, the OIR is required to participate in the organization's accreditation program, which is a certification that legal, regulatory, and organizational oversight standards and practices are being fulfilled by a state insurance department.

The OIR has identified two NAIC model acts as critical solvency regulation tools - the Own Risk Solvency Assessment (ORSA) and the Corporate Governance Annual Disclosure (CGAD):

- ORSA requires insurers to analyze all reasonable foreseeable and relevant material risks potentially affecting their ability to meet policyholder obligations. This will provide the OIR with an effective early warning mechanism and provides a group-level perspective on risk and capital. Effective January 1, 2018, ORSA is an NAIC accreditation standard.
- CGAD will provide the OIR with a detailed narrative describing governance practices to promote market stability and to deter unethical behavior.

The bill creates s. 628.8015, F.S., to implement the ORSA and CGAD model acts, and:

- Provides criteria for the OIR to exempt certain insurers and insurance groups and to provide waivers of ORSA requirements;
- Provides that ORSA and CGAD filings and related documents are privileged and not subject to subpoena or discovery directly from the OIR;
- Authorizes the OIR to retain third-party consultants to assist in its administration of the bill and specifies requirements for such third-party consultants;
- Authorizes the Financial Services Commission to adopt rules to implement the ORSA and CGAD requirements; and
- Authorizes the OIR to impose sanctions, for failure to submit ORSA summary reports or CGADs.

The bill has a positive, yet indeterminate fiscal impact on state revenues. In addition, the bill has an insignificant negative fiscal impact to state expenditures of the OIR related to enhancements to the technology systems utilized by the OIR. The bill has no fiscal impact on local government. The bill has an indeterminate fiscal impact on the private sector, in that it requires new regulatory reporting duties from insurers and will subject them to third-party consultant regulatory costs and other sanctions for violations. However, these insurer regulatory reports may reduce regulatory redundancies with other states and may enhance the OIR's solvency oversight.

The bill provides a contingent effective date of October 1, 2016, if the linked public records bill (HB 1165) or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Insurer Solvency Regulation & NAIC Accreditation**

The regulatory oversight of insurance companies is generally reserved to the states. In Florida, the Office of Insurance Regulation (OIR) is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the insurance code or ch. 636, F.S.<sup>1</sup> Solvency regulation is designed to protect policyholders against the risk that insurers will not be able to meet their financial responsibilities, namely, the payment of claims. Solvency regulations include the initial and maintenance requirements for an insurer's authority to transact insurance in this state,<sup>2</sup> monitoring the financial condition of insurers through examinations, audits, and procedures for the administrative supervision, rehabilitation, or liquidation of an insurance company if found to be in an unsound financial condition or insolvent.<sup>3</sup>

The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance departments that regulate the conduct and solvency of insurers in their respective states or territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate their regulatory oversight.<sup>4</sup> As a member of the NAIC, the OIR is required to participate in the organization's Financial Regulation Standards and Accreditation Program.<sup>5</sup>

NAIC accreditation is a certification that legal, regulatory, and organizational oversight standards and practices are being fulfilled by a state insurance department to promote sound insurer financial solvency regulation. The accreditation program is also designed to allow for interstate cooperation and reduces regulatory redundancies. For example, the OIR's examinations may be recognized by other member states, thereby avoiding the need to have a Florida domestic insurer examined by multiple states. All fifty states, the District of Columbia, and Puerto Rico are accredited by the NAIC. Once accredited, a state is subject to a full accreditation review every five years, as well as interim reviews. One major component of NAIC accreditation standards is the adequacy of solvency laws and regulations in each accredited state to protect consumers and guaranty funds, through the adoption of model laws.<sup>6</sup> The NAIC also periodically reviews these model solvency standards, and revises accreditation requirements to adapt to evolving industry practices.

In the wake of the 2008 financial crisis, U.S. insurance regulators began to modify their supervisory framework in order to be able to assess the holding company's financial system (as a whole) and its impact on an insurer within the holding company system. The AIG Financial Products unit based in

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<sup>1</sup> s. 20.121(3)(a)1., F.S. The OIR's commissioner is the agency head for purposes of final agency action, and its rulemaking body is the Financial Services Commission (the Governor and the Cabinet).

<sup>2</sup> Pt. III, ch. 624, F.S.

<sup>3</sup> *Administrative supervision* allows the Department of Financial Services (DFS) to supervise the management of a consenting troubled insurance company in an attempt to cure the company's troubles, rather than close it down. In *rehabilitation*, the DFS is authorized to act as the receiver to conduct all business of the insurer in an attempt to place the insurance company back in sound financial condition. In *liquidation*, the DFS is authorized as the receiver to gather an insolvent insurance company's assets, convert them to cash, distribute them to various claimants, and close the company. Ch. 631, F.S., governs these receivership processes for insurance companies, as well as the five guaranty funds to ensure policyholders of liquidated insurers are protected with respect to insurance premiums paid and the settlement of outstanding claims, up to limits provided by law.

<sup>4</sup> NAIC, *About the NAIC*, [http://www.naic.org/index\\_about.htm](http://www.naic.org/index_about.htm) (last visited Jan. 28, 2016).

<sup>5</sup> NAIC, *Financial Regulation Standards and Accreditation Committee*, at [http://www.naic.org/committees\\_f.htm](http://www.naic.org/committees_f.htm) (last visited Jan. 28, 2016).

<sup>6</sup> All NAIC Model Laws, Regulations and Guidelines are available at: [http://www.naic.org/store\\_model\\_laws.htm](http://www.naic.org/store_model_laws.htm) (last accessed Jan. 28, 2016).

London, a non-insurance component of the AIG holding company system, experienced significant losses from risky investments. The contagion effects experienced by U.S. insurers in the AIG holding company system's near collapse prompted U.S. insurance regulators to reevaluate their group supervisory framework and pay closer attention to the risks created by activities going on outside of those entities as well as the reputational and contagion issues that could exist.<sup>7</sup>

In 2008, the NAIC launched the Solvency Modernization Initiative (SMI) as a critical self-examination to update the U.S. insurance solvency framework. SMI focused on key issues such as capital requirements (including risk-based capital), governance and risk management, group supervision, statutory accounting and financial reporting, and reinsurance. In 2014, the Legislature enacted updates to the Insurance Code to include these new NAIC model elements necessary for the OIR to maintain its accreditation, including the Insurance Holding Company System Model, Risk-Based Capital for Insurers and Health Organization, the Property & Casualty Actuarial Opinion Model Law, and the Standard Valuation Law.<sup>8</sup>

The OIR has identified two model acts that the NAIC adopted as part of its Solvency Modernization Initiative and its Corporate Governance Working Group: the Own Risk and Solvency Assessment Act and the Corporate Governance Disclosure Model Act.

### **Own Risk and Solvency Assessment (ORSA)**

In 2011, as part of the NAIC's SMI, the NAIC adopted a new insurance regulatory tool: the U.S. Own Risk and Solvency Assessment (ORSA), which will require insurance companies to issue their own assessment of their current and future risk through an internal risk self-assessment process, which will allow regulators to form an enhanced view of an insurer's ability to withstand financial stress, particularly on a holding company's level.<sup>9</sup> In essence, an ORSA is an internal process undertaken by an insurer or insurance group to assess the adequacy of its risk management and current and prospective solvency positions under normal and severe stress scenarios. An ORSA will require insurers to analyze all reasonably foreseeable and relevant material risks (i.e., underwriting, credit, market, operational, liquidity risks, etc.) that could have an impact on an insurer's ability to meet its policyholder obligations.

The "O" in ORSA represents the insurer's "own" assessment of their current and future risks. Insurers and insurance groups will be required to articulate their own judgment about risk management and the adequacy of their capital position. This is meant to encourage management to anticipate potential capital needs and to take action proactively, and serves as an early warning mechanism for insurance regulators. ORSA is not a one-off exercise - it is a continuous evolving process and should be a component of an insurer's enterprise risk-management framework. Moreover, there is no mechanical way of conducting an ORSA; how to conduct the ORSA is left to each insurer to decide, and actual results and contents of an ORSA report will vary from company to company. The output will be a set of documents that demonstrate the results of management's self-assessment.

Effective January 1, 2018, ORSA is an NAIC accreditation standard for state insurance regulators. As of November 2015, thirty-four states have adopted ORSA.<sup>10</sup>

### **Corporate Governance Annual Disclosure (CGAD)**

Currently, during full-scope financial examinations, the OIR obtains some information on insurer governance structures, processes and practices. However, these examinations are typically limited to domestic insurers and occur only once every five years.<sup>11</sup> In the period between these examinations,

<sup>7</sup> NAIC, *Own Risk and Solvency Assessment (ORSA)*, [http://www.naic.org/cipr\\_topics/topic\\_own\\_risk\\_solvency\\_assessment.htm](http://www.naic.org/cipr_topics/topic_own_risk_solvency_assessment.htm) (last visited Jan. 29, 2016).

<sup>8</sup> Ch. 2014-101, Laws of Fla.

<sup>9</sup> NAIC, *Own Risk and Solvency Assessment (ORSA)*, at [http://www.naic.org/cipr\\_topics/topic\\_own\\_risk\\_solvency\\_assessment.htm](http://www.naic.org/cipr_topics/topic_own_risk_solvency_assessment.htm) (last visited Jan. 29, 2016).

<sup>10</sup> OIR, *Q&A on ORSA and CGAD* (Nov. 15, 2015), on file with the Insurance & Banking Subcommittee staff.

<sup>11</sup> s. 624.316(2)(a), F.S.

the OIR's access to insurer governance practices is more limited. This can mask changes and activities having a substantial bearing on the financial condition of the insurer.<sup>12</sup>

In 2012, the NAIC formed the Corporate Governance Working Group to outline high-level corporate governance principles for use in U.S. insurance regulation and to develop regulatory guidance, including detailed best practices, for the corporate governance of insurers. In 2014, the NAIC adopted the Corporate Governance Annual Disclosure Model Act (CGAD) and supporting Model Regulations.<sup>13</sup>

In the CGAD, insurers must document highly confidential information about their corporate governance framework, including the structure and policies of their boards of directors and key committees, the frequency of their meetings, and procedure for the oversight of critical risk areas and appointment practices, among other things. Insurers must also disclose the policies and practices used by their board of directors for directing senior management on critical areas, including a description of codes of business conduct and ethics, and processes for performance evaluation, compensation practices, corrective action, succession planning and suitability standards. The CGAD will provide regulators with a detailed narrative describing governance practices to promote market stability and to deter unethical behavior.

Upon state adoption of the NAIC models and as early as June 1, 2016, each U.S. insurer or the insurance group in which the insurer is a member, must submit a CGAD to its lead state or domestic regulator on an annual basis.<sup>14</sup> According to the NAIC, five jurisdictions have adopted the CGAD in a substantially similar form.<sup>15</sup>

### **Effect of the Bill**

The bill creates s. 628.8015, F.S., to require insurers or insurance groups (as applicable), to file an ORSA and CGAD with their domestic regulator or lead state, beginning in 2017.

### ***Definitions***

In addition to defining "corporate governance annual disclosure," "ORSA," "ORSA guidance manual," and "ORSA summary report," the bill defines the following:

- "Insurer" is defined as the same as in s. 624.03, F.S.,<sup>16</sup> but excludes state and federal agencies, authorities, instrumentalities, possessions, territories, or political subdivisions of a state;
- "Insurance group" is defined to mean insurers and affiliates included within an insurance holding company system; and
- "Senior management" is defined to mean any corporate officer responsible for reporting information to the board of directors at regular intervals or providing information to shareholders or regulators. This includes, but is not limited to, a number of executives such as chief executive officer, chief financial officer, and chief risk officer.

### ***ORSA***

The bill incorporates the three major components of the ORSA, to require insurers or insurance groups to:

- Maintain a *risk management framework* for identifying, assessing, monitoring, managing, and reporting on its material, relevant risks;

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<sup>12</sup> Office of Insurance Regulation, Agency Analysis of 2016 House Bill 1163, p. 3 (Jan. 22, 2016).

<sup>13</sup> The CGAD Model Act and supporting Model Regulations are currently exposed for public comment until December 31, 2016, and may be considered for adoption as a NAIC accreditation standard in 2017, effective January 2019. See footnote 9, *supra*.

<sup>14</sup> NAIC, *Corporate Governance*, at [http://www.naic.org/cipr\\_topics/topic\\_corporate\\_governance.htm](http://www.naic.org/cipr_topics/topic_corporate_governance.htm) (last visited Jan. 29, 2016).

<sup>15</sup> These five states are California, Indiana, Iowa, Louisiana, and Vermont. Office of Insurance Regulation, Agency Analysis of 2016 House Bill 1163, p. 3 (Jan. 22, 2016).

<sup>16</sup> Section 624.03, F.S., defines "insurer" to mean every person engaged as an indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuity.

- This requirement may be satisfied by being a member of an insurance group with a risk management framework applicable to the insurer's operations.
- Conduct an ORSA at least annually (and whenever there have been significant changes to the risk profile of the insurer or the insurance group), consistent with and comparable to the process in the ORSA Guidance Manual;<sup>17</sup> and
- File an ORSA summary report, based on the ORSA Guidance Manual with their domestic regulator or lead state (for an insurance group), beginning in 2017, which must:
  - Be submitted once every calendar year;
  - Include notification to the OIR of its proposed annual submission date by December 1, 2016; initial ORSA summary report must be submitted by December 31, 2017;
  - Include a brief description of material changes and updates from the prior year's report;
  - Be signed by the chief risk officer or chief executive officer responsible for overseeing the enterprise risk management process; provide copy to board of directors or appropriate board committee; and
  - Be prepared in accordance with the ORSA guidance manual; the insurer must maintain and make available for OIR examination documentation and supporting information.

### *ORSA Exemption & Waiver*

The bill exempts an insurer from the ORSA requirement if:

- Its annual direct written and unaffiliated assumed premium is less than \$500 million (excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program); or
- It is a member of an insurance group with an annual direct written and unaffiliated assumed premium of \$1 billion or less (excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program).<sup>18</sup>

The bill also sets forth reporting obligations, depending on the exempt status of the insurer and its insurance group. Additionally, the OIR may still require an exempt insurer to maintain a risk management framework, conduct and file an ORSA summary report based on certain circumstances such as: an exempt insurer's risk-based capital that triggers a company action level event,<sup>19</sup> an exempt insurer exhibits qualities of an insurer in hazardous financial condition, or it is in the best interest of the state.

In addition, the bill allows OIR to grant a waiver to an otherwise non-exempt insurer based on unique circumstances, and specifies criteria for the OIR to consider.

### *CGAD*

The bill requires insurers or insurer members of insurance groups (of which the OIR is the lead state regulator) to submit a CGAD the 1<sup>st</sup> of every June, with an initial CGAD to be submitted by December 31, 2017. The CGAD must be signed by the CEO or corporate secretary, and must describe the insurer or insurance group's governance framework and structure, relevant policies and practices, and processes for overseeing critical risk areas affecting business activities.

<sup>17</sup> The bill defines "ORSA guidance manual" as the ORSA manual developed and adopted by the NAIC. See NAIC, *ORSA Guidance Manual* (Jul. 2014), at [http://www.naic.org/store/free/ORSA\\_manual.pdf](http://www.naic.org/store/free/ORSA_manual.pdf).

<sup>18</sup> According to the OIR, two property and casualty insurer groups and five life and health insurer groups meet the ORSA threshold and have Florida as the lead state. OIR, *Q&A on ORSA and CGAD* (Nov. 15, 2015), on file with the Insurance & Banking Subcommittee staff. This information is based on 2014 premium data.

<sup>19</sup> Section 624.81(11), F.S., authorizes the OIR to place an insurer under administrative supervision and order corrective action if the insurer is in unsound condition, exceeds its powers granted under its certificate of authority, or its practices are hazardous to the public. Commission rule defines "hazardous financial condition" in accordance with NAIC model regulation. Rule 69O-141.002, F.A.C.

The bill allows insurers and insurance groups to provide corporate governance information at the ultimate controlling parent level, the intermediate holding company level, or at the individual legal entity level. Additionally, insurers and insurance groups may make their CGAD at levels at which the insurer or insurance group 1) determines risk appetite, 2) oversees or exercises coordinated supervision of earnings, capital, liquidity, operations, and reputation of the insurer, or 3) at which legal liability would be placed for failure of general corporate governance duties. The insurer or insurance group must indicate their level of reporting and explain any subsequent changes, and may meet these requirements by referring other relevant and existing documents, such as the ORSA summary report, Holding Company B or F filings, and Securities and Exchange Commission proxy statements. The lead state may request additional information and must review the CGAD in accordance with the NAIC Financial Handbook. Insurers and insurance groups must report subsequent changes to the CGAD.

#### *Privilege & Confidentiality of ORSA & CGAD*

The bill provides that the ORSA and CGAD filings and related documents that are submitted pursuant to this newly created s. 628.8015, F.S., are privileged and not subject to subpoena or discovery directly from the OIR. The bill prohibits the OIR, or any person acting under the OIR's authority (such as third-party consultants), from testifying as to such filings or related documents in a private civil action. However, the OIR or the Department of Financial Services may use these filings and related documents in any regulatory or legal action it brings against an insurer as part of their official duties. The bill also provides that any applicable claims of privilege as to these filings and related documents are not waived simply because a disclosure to the OIR under this section or under any other provision of the Insurance Code.

Substantially similar privilege language was enacted in 2014 for other insurer regulatory filings:

- Section 628.801(4), F.S., regarding insurance holding company registration statements and annual enterprise risk reports; and
- Section 625.1214, F.S., relating to annual actuarial opinions of reserves and supporting memoranda required of life insurers.

#### *Third-Party Consultants*

The bill authorizes the OIR to retain third-party consultants at the expense of the insurer or the insurance group for the purpose of assisting the OIR with ORSA and CGAD responsibilities. The bill requires these third-party consultants to adhere to confidentiality and conflict of interest standards through a written agreement with the OIR.

In other areas of the Insurance Code, the OIR has authority to contract with independent external auditors or examiners under the following provisions:

- s. 624.316(2)(e), F.S., OIR general examination authority;
- s. 624.3161(3), F.S., OIR market conduct examination authority;
- s. 624.44(1)(c), F.S., multiple-employer welfare arrangements; and
- s. 641.27(2), F.S., for health maintenance organization examinations.

#### *Rulemaking*

The bill authorizes the Financial Services Commission to adopt rules to administer the bill.

#### *Sanctions*

Currently, s. 628.803, F.S., authorizes the OIR to impose sanctions on insurers and certain affiliated individuals of insurers for certain violations. The 2014 insurer solvency legislation authorizes the OIR to place an insurer under an order of supervision and to disapprove dividends or distributions, if the OIR finds that the insurer violated s. 628.461, F.S., (acquisition of controlling stock requirements) or s.

628.801, F.S., (insurance holding company registration statement and enterprise risk reporting requirements).<sup>20</sup>

Section 2 of the bill amends s. 628.803, F.S., to provide that the OIR may impose these fines for failure to submit an ORSA summary report or CGAD, or may issue an order of supervision and disapprove dividends or distributions if an insurance company violates the newly created s. 628.8015, F.S., created in the bill.

#### B. SECTION DIRECTORY:

**Section 1.** Creates s. 628.8015, F.S., relating to own-risk and solvency assessment; corporate governance annual disclosure.

**Section 2.** Amends s. 628.803, F.S., relating to sanctions.

**Section 3.** Provides an effective date of October 1, 2016, if HB 1165 or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill has a positive, yet indeterminate fiscal impact on state revenues. The bill applies existing sanctions from s. 628.803, F.S., relating to insurers' failure to file a holding company registration statement to include failure to file an ORSA or a CGAD as required in the bill. The sanctions included in s. 628.803, F.S., provide that insurer's in violation of the statute are subject to a penalty of \$100 for each days delay, not to exceed a total of \$10,000.<sup>21</sup>

##### 2. Expenditures:

The bill has an insignificant negative fiscal impact to state expenditures of the OIR related to enhancements to the technology systems utilized by the office. However, the OIR indicates that any expenditure increase as a result of the bill, to accommodate the collection of additional information through their current technology systems can be handled within existing resources.<sup>22</sup>

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact to the private sector is indeterminate. The bill exposes insurers and insurance groups to additional fines and sanctions and third-party consultant costs incurred by the OIR. However, it may have a positive impact by enhancing the OIR's solvency oversight and thus ultimately benefit policyholders.

According to the OIR, insurers should realize indeterminate cost savings through regulatory efficiencies resulting from adoption of the ORSA Model Act and elimination of regulatory redundancies (i.e., having to make separate filings in each state). Complying with the CGAD is estimated to have only a minimal fiscal impact on insurers and insurance groups, since they currently summarize and describe their

<sup>20</sup> s. 628.803(4), F.S.; s. 12, ch. 2014-101, Laws of Fla.

<sup>21</sup> S. 628.803(1), F.S.

<sup>22</sup> Email correspondence with The Department of Financial Services (Jan. 20, 2016) on file with the Government Operations Appropriations Subcommittee.

corporate governance practices for a number of stakeholders on a regular basis. In addition, the CGAD permits insurers and insurance groups to reference existing documents and filings and simplifies the reporting process for filing changes from the prior year.<sup>23</sup>

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Financial Services Commission to adopt rules to administer the newly created s. 628.8015, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 25, 2016, the Insurance & Banking Subcommittee considered and adopted two amendments and reported the bill favorably as a committee substitute. The first amendment removed duplicate language regarding preparation of the ORSA summary report, and the second amendment removed the bill's exemption from rule ratification requirements in s. 120.541(3), F.S.

This analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.

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<sup>23</sup> *Id.*



27 | governance annual disclosure.-

28 |       (1) DEFINITIONS.-As used in this section, the term:

29 |       (a) "Corporate governance annual disclosure" means a  
 30 | report filed by an insurer or insurance group in accordance with  
 31 | this section.

32 |       (b) "Insurance group" means insurers and affiliates  
 33 | included within an insurance holding company system.

34 |       (c) "Insurer" has the same meaning as in s. 624.03.  
 35 | However, the term does not include agencies, authorities,  
 36 | instrumentalities, possessions, or territories of the United  
 37 | States, the Commonwealth of Puerto Rico, or the District of  
 38 | Columbia; or agencies, authorities, instrumentalities, or  
 39 | political subdivisions of a state.

40 |       (d) "Own-risk and solvency assessment" or "ORSA" means an  
 41 | internal assessment, appropriate to the nature, scale, and  
 42 | complexity of an insurer or insurance group, conducted by that  
 43 | insurer or insurance group, of the material and relevant risks  
 44 | associated with the business plan of an insurer or insurance  
 45 | group and the sufficiency of capital resources to support those  
 46 | risks.

47 |       (e) "ORSA guidance manual" means the own-risk and solvency  
 48 | assessment guidance manual developed and adopted by the National  
 49 | Association of Insurance Commissioners.

50 |       (f) "ORSA summary report" means a high-level ORSA summary  
 51 | of an insurer or insurance group, consisting of a single report  
 52 | or combination of reports.

53 (g) "Senior management" means any corporate officer  
 54 responsible for reporting information to the board of directors  
 55 at regular intervals or providing information to shareholders or  
 56 regulators and includes, but is not limited to, the chief  
 57 executive officer, chief financial officer, chief operations  
 58 officer, chief risk officer, chief procurement officer, chief  
 59 legal officer, chief information officer, chief technology  
 60 officer, chief revenue officer, chief visionary officer, or any  
 61 other executive performing one or more of these functions.

62 (2) OWN-RISK AND SOLVENCY ASSESSMENT.—

63 (a) Risk management framework.—An insurer shall maintain a  
 64 risk management framework to assist in identifying, assessing,  
 65 monitoring, managing, and reporting its material and relevant  
 66 risks. An insurer may satisfy this requirement by being a member  
 67 of an insurance group with a risk management framework  
 68 applicable to the operations of the insurer.

69 (b) ORSA requirement.—Subject to paragraph (c), an  
 70 insurer, or the insurance group of which the insurer is a  
 71 member, shall regularly conduct an ORSA consistent with and  
 72 comparable to the process in the ORSA guidance manual. The ORSA  
 73 must be conducted at least annually and whenever there have been  
 74 significant changes to the risk profile of the insurer or the  
 75 insurance group of which the insurer is a member.

76 (c) ORSA summary report.—

77 1.a. A domestic insurer or insurer member of an insurance  
 78 group of which the office is the lead state, as determined by

79 the procedures in the most recent National Association of  
 80 Insurance Commissioners Financial Analysis Handbook, shall:

81 (I) Submit an ORSA summary report to the office once every  
 82 calendar year.

83 (II) Notify the office of its proposed annual submission  
 84 date by December 1, 2016. The initial ORSA summary report must  
 85 be submitted by December 31, 2017.

86 b. An insurer not required to submit an ORSA summary  
 87 report pursuant to sub-subparagraph a. shall:

88 (I) Submit an ORSA summary report at the request of the  
 89 office, but not more than once per calendar year.

90 (II) Notify the office of the proposed submission date  
 91 within 30 days after the request of the office.

92 2. An insurer may comply with sub-subparagraph 1.a. or  
 93 sub-subparagraph 1.b. by providing the most recent and  
 94 substantially similar ORSA summary report submitted by the  
 95 insurer, or another member of an insurance group of which the  
 96 insurer is a member, to the chief insurance regulatory official  
 97 of another state or the supervisor or regulator of a foreign  
 98 jurisdiction. For purposes of this subparagraph, a  
 99 "substantially similar" ORSA summary report is one that contains  
 100 information comparable to the information described in the ORSA  
 101 guidance manual as determined by the commissioner of the office.  
 102 If the report is in a language other than English, it must be  
 103 accompanied by an English translation.

104 3. The chief risk officer or chief executive officer of

105 the insurer or insurance group responsible for overseeing the  
 106 enterprise risk management process must sign the ORSA summary  
 107 report attesting that, to the best of his or her knowledge and  
 108 belief, the insurer or insurance group applied the enterprise  
 109 risk management process described in the ORSA summary report and  
 110 provided a copy of the report to the board of directors or the  
 111 appropriate board committee.

112 4. The ORSA summary report must be prepared in accordance  
 113 with the ORSA guidance manual, subject to the requirements of  
 114 paragraph (b). Supporting information must be maintained by the  
 115 insurer and made available upon examination pursuant to s.  
 116 624.316 or upon the request of the office.

117 5. The ORSA summary report must include a brief  
 118 description of material changes and updates since the prior year  
 119 report.

120 6. The office's review of the ORSA summary report must be  
 121 conducted, and any additional requests for information must be  
 122 made, using procedures similar to those used in the analysis and  
 123 examination of multistate or global insurers and insurance  
 124 groups.

125 (d) Exemption.—

126 1. An insurer is exempt from the requirements of this  
 127 subsection if:

128 a. The insurer has annual direct written and unaffiliated  
 129 assumed premium, including international direct and assumed  
 130 premium, but excluding premiums reinsured with the Federal Crop

131 Insurance Corporation and the National Flood Insurance Program,  
 132 of less than \$500 million; or

133 b. The insurer is a member of an insurance group and the  
 134 insurance group has annual direct written and unaffiliated  
 135 assumed premium, including international direct and assumed  
 136 premium, but excluding premiums reinsured with the Federal Crop  
 137 Insurance Corporation and the National Flood Insurance Program,  
 138 of less than \$1 billion.

139 2. If an insurer is:

140 a. Exempt under sub-subparagraph 1.a., but the insurance  
 141 group of which the insurer is a member is not exempt under sub-  
 142 subparagraph 1.b., the ORSA summary report must include every  
 143 insurer within the insurance group. The insurer may satisfy this  
 144 requirement by submitting more than one ORSA summary report for  
 145 any combination of insurers if any combination of reports  
 146 includes every insurer within the insurance group.

147 b. Not exempt under sub-subparagraph 1.a., but the  
 148 insurance group of which it is a member is exempt under sub-  
 149 subparagraph 1.b., the insurer must submit to the office the  
 150 ORSA summary report applicable only to that insurer.

151 3. The office may require an exempt insurer to maintain a  
 152 risk management framework, conduct an ORSA, and file an ORSA  
 153 summary report:

154 a. Based on unique circumstances, including, but not  
 155 limited to, the type and volume of business written, ownership  
 156 and organizational structure, federal agency requests, and

157 international supervisor requests;  
 158 b. If the insurer has risk-based capital for a company  
 159 action level event pursuant to s. 624.4085(3), meets one or more  
 160 of the standards of an insurer deemed to be in hazardous  
 161 financial condition as defined in rules adopted by the  
 162 commission pursuant to s. 624.81(11), or exhibits qualities of  
 163 an insurer in hazardous financial condition as determined by the  
 164 office; or  
 165 c. If the office determines it is in the best interest of  
 166 the state.  
 167 4. If an exempt insurer becomes disqualified for an  
 168 exemption because of changes in premium as reported on the most  
 169 recent annual statement of the insurer or annual statements of  
 170 the insurers within the insurance group of which the insurer is  
 171 a member, the insurer must comply with the requirements of this  
 172 section effective 1 year after the year in which the insurer  
 173 exceeded the premium thresholds.  
 174 (e) Waiver.—An insurer that does not qualify for an  
 175 exemption under paragraph (d) may request a waiver from the  
 176 office based upon unique circumstances. If the insurer is part  
 177 of an insurance group with insurers domiciled in more than one  
 178 state, the office must coordinate with the lead state and with  
 179 the other domiciliary regulators in deciding whether to grant a  
 180 waiver. In deciding whether to grant a waiver, the office may  
 181 consider:  
 182 1. The type and volume of business written by the insurer.

183 | 2. The ownership and organizational structure of the  
 184 | insurer.

185 | 3. Any other factor the office considers relevant to the  
 186 | insurer or insurance group of which the insurer is a member.

187 |  
 188 | A waiver granted pursuant to this paragraph is valid until  
 189 | withdrawn by the office.

190 | (3) CORPORATE GOVERNANCE ANNUAL DISCLOSURE.-

191 | (a) Scope.-This section does not prescribe or impose  
 192 | corporate governance standards and internal procedures beyond  
 193 | those required under applicable state corporate law or to limit  
 194 | the authority of the office, or the rights or obligations of  
 195 | third parties, under s. 624.316.

196 | (b) Disclosure requirement.-

197 | 1.a. An insurer, or insurer member of an insurance group,  
 198 | of which the office is the lead state regulator, as determined  
 199 | by the procedures in the most recent National Association of  
 200 | Insurance Commissioners Financial Analysis Handbook, shall  
 201 | submit a corporate governance annual disclosure to the office by  
 202 | June 1 of each calendar year. The initial corporate governance  
 203 | annual disclosure must be submitted by December 31, 2017.

204 | b. An insurer or insurance group not required to submit a  
 205 | corporate governance annual disclosure under sub-subparagraph  
 206 | 1.a. shall do so at the request of the office, but not more than  
 207 | once per calendar year. The insurer shall notify the office of  
 208 | the proposed submission date within 30 days after the request of

209 | the office.

210 |       2. The chief executive officer or corporate secretary of  
 211 | the insurer or the insurance group must sign the corporate  
 212 | governance annual disclosure attesting that, to the best of his  
 213 | or her knowledge and belief, the insurer has implemented the  
 214 | corporate governance practices and provided a copy of the  
 215 | disclosure to the board of directors or the appropriate board  
 216 | committee.

217 |       3.a. Depending on the structure of its system of corporate  
 218 | governance, the insurer or insurance group may provide corporate  
 219 | governance information at one of the following levels:

- 220 |       (I) The ultimate controlling parent level;
- 221 |       (II) An intermediate holding company level; or
- 222 |       (III) The individual legal entity level.

223 |       b. The insurer or insurance group may make the corporate  
 224 | governance annual disclosure at:

- 225 |       (I) The level used to determine the risk appetite of the  
 226 | insurer or insurance group;
- 227 |       (II) The level at which the earnings, capital, liquidity,  
 228 | operations, and reputation of the insurer are collectively  
 229 | overseen and the supervision of those factors is coordinated and  
 230 | exercised; or
- 231 |       (III) The level at which legal liability for failure of  
 232 | general corporate governance duties would be placed.

233 |

234 | An insurer or insurance group must indicate the level of

235 | reporting used and explain any subsequent changes in the  
 236 | reporting level.

237 | 4. The review of the corporate governance annual  
 238 | disclosure and any additional requests for information shall be  
 239 | made through the lead state as determined by the procedures in  
 240 | the most recent National Association of Insurance Commissioners  
 241 | Financial Analysis Handbook.

242 | 5. An insurer or insurance group may comply with this  
 243 | paragraph by cross-referencing other existing relevant and  
 244 | applicable documents, including, but not limited to, the ORSA  
 245 | summary report, Holding Company Form B or F filings, Securities  
 246 | and Exchange Commission proxy statements, or foreign regulatory  
 247 | reporting requirements, if the documents contain information  
 248 | substantially similar to the information described in paragraph  
 249 | (c). The insurer or insurance group shall clearly identify and  
 250 | reference the specific location of the relevant and applicable  
 251 | information within the corporate governance annual disclosure  
 252 | and attach the referenced document if it has not already been  
 253 | filed with, or made available to, the office.

254 | 6. Each year following the initial filing of the corporate  
 255 | governance annual disclosure, the insurer or insurance group  
 256 | shall file an amended version of the previously filed corporate  
 257 | governance annual disclosure indicating changes that have been  
 258 | made. If changes have not been made in the previously filed  
 259 | disclosure, the insurer or insurance group should so indicate.

260 | (c) Preparation of the corporate governance annual

261 disclosure.-

262 1. The corporate governance annual disclosure must be  
 263 prepared in a manner consistent with this subsection.

264 Documentation and supporting information must be maintained and  
 265 made available upon examination pursuant to s. 624.316 or upon  
 266 the request of the office.

267 2. The corporate governance annual disclosure must be as  
 268 descriptive as possible and include any attachments or example  
 269 documents used in the governance process.

270 3. The insurer or insurance group has discretion in  
 271 determining the appropriate format of the corporate governance  
 272 annual disclosure in communicating the required information and  
 273 responding to inquiries, provided that the corporate governance  
 274 annual disclosure includes material and relevant information  
 275 sufficient to enable the office to understand the corporate  
 276 governance structure, policies, and practices used by the  
 277 insurer or insurance group.

278 4. The corporate governance annual disclosure must  
 279 describe the:

280 a. Corporate governance framework and structure of the  
 281 insurer or insurance group.

282 b. Policies and practices of the most senior governing  
 283 entity and significant committees.

284 c. Policies and practices for directing senior management.

285 d. Processes by which the board, its committees, and  
 286 senior management ensure an appropriate amount of oversight to

287 | the critical risk areas that have an impact on the insurer's  
 288 | business activities.

289 | (4) CONFIDENTIALITY.—The filings and related documents  
 290 | submitted pursuant to subsections (2) and (3) are privileged and  
 291 | not subject to subpoena or discovery directly from the office.  
 292 | However, the department or office may use these filings and  
 293 | related documents in the furtherance of any regulatory or legal  
 294 | action brought against an insurer as part of the official duties  
 295 | of the department or office. A waiver of any applicable claim of  
 296 | privilege in these filings and related documents may not occur  
 297 | because of a disclosure to the office under this section,  
 298 | because of any other provision of the Insurance Code, or because  
 299 | of sharing under s. 624.4212. The office or a person receiving  
 300 | these filings and related documents, while acting under the  
 301 | authority of the office, or with whom such filings and related  
 302 | documents are shared pursuant to s. 624.4212, is not permitted  
 303 | or required to testify in any private civil action concerning  
 304 | any such filings or related documents.

305 | (5) USE OF THIRD-PARTY CONSULTANTS.—The office may retain  
 306 | third-party consultants at the expense of the insurer or  
 307 | insurance group for the purpose of assisting it in the  
 308 | performance of its regulatory responsibilities under this  
 309 | section, including, but not limited to, the risk management  
 310 | framework, the ORSA, the ORSA summary report, and the corporate  
 311 | governance annual disclosure. A third-party consultant must  
 312 | agree, in writing, to:

313 (a) Adhere to confidentiality standards and requirements  
 314 applicable to the office governing the sharing and use of such  
 315 filings and related documents.

316 (b) Verify to the office, with notice to the insurer, that  
 317 the consultant is free of any conflict of interest.

318 (c) Monitor compliance with applicable confidentiality and  
 319 conflict of interest standards pursuant to a system of internal  
 320 procedures.

321 (6) RULE ADOPTION.—The commission may adopt rules to  
 322 administer this section.

323 Section 2. Subsections (1) and (4) of section 628.803,  
 324 Florida Statutes, are amended to read:

325 628.803 Sanctions.—

326 (1) Any company failing, without just cause, to file any  
 327 registration statement or certificate of exemption required to  
 328 be filed pursuant to commission rules relating to this part or  
 329 to submit an ORSA summary report or a corporate governance  
 330 annual disclosure required pursuant to s. 628.8015 shall, in  
 331 addition to other penalties prescribed under the Florida  
 332 Insurance Code, be subject to pay a penalty of \$100 for each  
 333 day's delay, not to exceed a total of \$10,000.

334 (4) If the office determines that any person violated s.  
 335 628.461, ~~or~~ s. 628.801, or s. 628.8015, the violation may serve  
 336 as an independent basis for disapproving dividends or  
 337 distributions and for placing the insurer under an order of  
 338 supervision in accordance with part VI of chapter 624.

CS/HB 1163

2016

339           Section 3. This act shall take effect October 1, 2016, if  
340 CS/HB 1165 or similar legislation is adopted in the same  
341 legislative session or an extension thereof and becomes a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1187 Regulated Professions and Occupations  
**SPONSOR(S):** Grant  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1050

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	7 Y, 5 N	Brown-Blake	Anstead
2) Government Operations Appropriations Subcommittee		White <i>CCW</i>	Topp <i>BDT</i>
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The Department of Business and Professional Regulation (Department) licenses and regulates businesses and professionals in Florida. It is structured to include separate divisions and various boards responsible for carrying out the Department's mission to license efficiently and regulate fairly.

The bill amends current law relating to certain professions and business organizations. Specifically, the bill:

- Eliminates the requirement that the following licensees acquire a certificate of authorization for their business entities, but allows such licensees to continue to operate their business entities if they apply to be the qualifying agent for such business entity:
  - Asbestos abatement consultant or contractor;
  - Architect;
  - Interior Designer;
  - Landscape Architect; or
  - Geologist.
- Provides that yacht and ship brokers do not have to obtain a license for each branch office, so long as they maintain a primary office location.
- Removes the following professions and entities from the regulation of the Department and deletes provisions regulating the profession:
  - Labor organizations;
  - Athlete Agents;
  - Hair Wrappers; and
  - Body Wrappers.
- Repeals ch. 468, F.S., part VII, regarding Talent Agencies.
- Provides exemptions for the following individuals from licensure requirements:
  - Individuals providing veterinary acupuncture or massage;
  - Individuals solely painting fingers or nails;
  - Individuals selling, installing, or otherwise working on low voltage communication cable; and
  - Individuals installing low voltage landscape lighting containing a factory installed electrical cord with a plug.
- Exempts burglar alarm system agents from 14 hour board-approved training if the agent only performs sales or installations of wireless alarm systems other than fire alarm systems.

The bill is anticipated to significantly reduce revenues to the Department's Professional Regulation Trust Fund and an insignificant reduction in revenues to the Division of Condominiums, Timeshares and Mobile Homes Trust Fund. The revenue reduction is anticipated to be \$1,899,192 over the next three fiscal years. As a result of the reduction in revenues, there will also be a reduction in expenditures of approximately \$151,936 in the 8% revenue service charge sent to the General Revenue Fund.

The bill provides an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### General

The Department of Business and Professional Regulation (Department) licenses and regulates businesses and professionals in Florida. It is structured to include separate divisions and various boards responsible for carrying out the Department's mission to license efficiently and regulate fairly. The Divisions established under the Department include:

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

The Division of Professions (Professions) is responsible for the licensing of more than 415,000 professionals. Professions administers 12 professional boards, five department-regulated programs and one council, as follows:

- Board of Architecture and Interior Design;
- Asbestos Licensing Unit;
- Athlete Agents;
- Board of Auctioneers;
- Barbers' Board;
- Building Code Administrators and Inspectors Board;
- Regulatory Council of Community Association Managers;
- Construction Industry Licensing Board;
- Board of Cosmetology;
- Electrical Contractors' Licensing Board;
- Board of Employee Leasing Companies;
- Home Inspectors;
- Board of Landscape Architecture;
- Mold-Related Services;
- Board of Pilot Commissioners;
- Board of Professional Geologists;
- Talent Agencies;
- Board of Veterinary Medicine; and
- Florida Board of Professional Engineers (managed by the Florida Engineers Management Corporation).<sup>2</sup>

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<sup>1</sup> s. 20.165, F.S.

<sup>2</sup> Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/dbpr/pro/index.html> (last visited January 8, 2016).

The Division of Regulation (Regulation) acts as the enforcement authority for the professional boards and programs. Regulation monitors the professionals and related businesses; investigates complaints; and utilizes compliance mechanisms such as notices of noncompliance and citations.

Regulation is divided into six program areas as follows:

- Complaints/Investigations;
- Alternative Dispute Resolution;
- Unlicensed Activity;
- Farm Labor;
- Inspections; and
- Child Labor.<sup>3</sup>

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.<sup>4</sup> FCTMH has limited regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (jurisdiction limited to arbitration of election and recall disputes).<sup>5</sup>

## **Yacht and Ship Broker Branch Office Licenses**

### **Background**

Chapter 326, F.S., governs the licensing and regulation of yacht and ship brokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker's Section, a unit of the FCTMH, processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.<sup>6</sup>

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.<sup>7</sup> "Each [yacht or ship] broker must maintain a principle place of business in this state and may establish branch offices in the state. A separate license must be maintained for each branch office."<sup>8</sup>

Applicants for a branch office license and renewal pay a \$100 fee. The license needs to be renewed every two years.<sup>9</sup> There is no requirement on the branch office other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 73 yacht and ship broker branch office licenses in active status and on average 13 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no

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<sup>3</sup> Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/dbpr/pro/index.html>, (last visited January 8, 2016).

<sup>4</sup> Department of Business and Professional Regulation, *Division of Florida condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/dbpr/lsc/index.html>, (last visited January 8, 2016).

<sup>5</sup> *Id.*

<sup>6</sup> Department of Business and Professional Regulation, *Yacht and ship Brokers; Licensing and Enforcement*, <http://www.myfloridalicense.com/dbpr/lsc/YachtandShip.html>, (last visited on January 12, 2016).

<sup>7</sup> s. 326.004(1), F.S.

<sup>8</sup> s. 326.004(13), F.S.

<sup>9</sup> Rule 61B-60.002, F.A.C.

disciplinary cases brought against any yacht or ship broker branch office licenses during the 2012-2015 fiscal years.<sup>10</sup>

### Effect of the Bill

The bill amends s. 326.004(13), F.S., removing the requirement for yacht and ship brokers to obtain a branch office license for each branch office. The bill does not remove the requirement for a broker to be licensed or to maintain a principle place of business in Florida.

### Labor Organizations

#### Background

Chapter 447, F.S., governs the licensing and regulation of labor organizations and related business agents in the state. The Labor Organizations Program is a program located under the Division of Regulation. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the labor organization industry.

A labor organization is defined as “[a]ny organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state.”<sup>11</sup>

In Florida, all labor organizations are required to register with the Department and all business agents of labor organizations must obtain a license.<sup>12</sup> Business agents are defined as “[a]ny person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

- The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; or
- Soliciting or receiving from any employer any right or privilege for employees.”<sup>13</sup>

Applicants for a business agent license shall pay \$25 fee for licensure and must meet a number of licensure requirements.<sup>14</sup> Labor organization applicants must pay an annual fee of \$1.<sup>15</sup>

As of October 2015, there were 309 labor organizations registered and on average 15 new initial registrations issued annually during the 2012- 2015 fiscal years. Additionally, there were 469 business agents licensed and on average 48 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any labor organizations or business agents during the 2012-2015 fiscal years.

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<sup>10</sup> Department of Business and Professional Regulation, *Eliminating Duplicative and Excessive Regulation* (October, 2015), (on file with the Business & Professionals Subcommittee).

<sup>11</sup> s. 447.02(1), F.S.

<sup>12</sup> s. 447.04(2), F.S.

<sup>13</sup> s. 447.02(2), F.S.

<sup>14</sup> s. 447.04(2), F.S.

<sup>15</sup> s. 447.06(1), F.S.

## Effect of the Bill

The bill repeals certain provisions of ch. 447, F.S., which require labor organizations to be licensed and regulated by the Department. Specifically, the bill repeals:

- Section 447.04, F.S., regarding the licensure of business agents;
- Section 447.041, F.S., regarding hearings provided to licensees pursuant to ch. 120, F.S.;
- Section 447.045, F.S., regarding confidential information obtained by the Department during an investigation;
- Section 447.06, F.S., regarding the registration of labor organizations;
- Section 447.12, F.S., regarding the fees for registration; and
- Section 447.26, F.S., regarding the renewal of business agent's license renewal requirements.

Additionally, s. 447.02, F.S., was amended to remove the definition of "department," and s. 447.09, F.S. was amended to remove any disciplinary action against a business agent regarding licensure.

The bill does not affect the ability of individuals to pursue civil remedies against labor organizations for violations of ch. 447, F.S., or the ability of the state to pursue criminal penalties for a violation of the chapter. Additionally, the bill does not alter the obligations of a labor organization unrelated to registration with the Department.

## Talent Agencies

### Background

Chapter 468, Part VII, F.S., governs the licensing and regulation of talent agencies in the state. The Talent Agencies Program is a program located under the Division of Professions. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the talent agency industry.

Individuals are prohibited from owning, operating, soliciting business, or otherwise engaging in or carrying on the occupation of a talent agency in this state unless the person first obtains licensure for the talent agency.<sup>16</sup> A talent agency is defined as "[a]ny person who, for compensation, engages in the occupation or business of procuring or attempting to procure engagements for an artist."<sup>17</sup>

To qualify for a talent agency license, the applicant must be of good moral character and shall show whether or not the agency, any person, or any owner of the agency is financially interested in any other business of like nature, and if so, shall specify the interests.<sup>18</sup>

At the time of application, applicants for a talent agency license must pay an application fee of \$300, an unlicensed activity fee of \$5, and an initial licensure fee of \$200 if licensed after March 31 of any odd numbered year. Otherwise the initial license fee is \$400. Talent agency license holders must pay a biennial renewal fee of \$400.<sup>19</sup>

Licensed talent agencies are required to:

- File an itemized schedule of maximum fees, charges, and commissions it intends to charge and collect for its services;<sup>20</sup>
- Pay to the artist all money collected from an employer for the benefit of an artist within five business days after receipt of the money;<sup>21</sup>

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<sup>16</sup> s. 468.403(1), F.S.

<sup>17</sup> s. 468.401, F.S.

<sup>18</sup> s. 468.405, F.S.

<sup>19</sup> Rule 61-19.005, F.A.C.

<sup>20</sup> s. 468.406(1), F.S.

<sup>21</sup> s. 468.406(2), F.S.

- Display a copy of the license conspicuously in the place of business;<sup>22</sup>
- File a bond with the Department in the form of a surety for the penal sum of \$5,000, which may be drawn upon if a person is aggrieved by the misconduct of the talent agency;<sup>23</sup>
- Maintain records including the application, registration, or contract of each artist, with additional information;<sup>24</sup>
- Provide a copy of the contract to the artist within 24 hours of the contract's execution,<sup>25</sup> and
- Comply with the prohibited acts set forth in s. 468.412, F.S.

Licensed talent agencies are prohibited from:

- Charging the artist a registration fee;<sup>26</sup> and
- Requiring the artist to subscribe to, purchase, or attend any publication, postcard service, and advertisement, resume service, photography service, school, acting school, workshop, or acting workshop.<sup>27</sup>

Section 468.415, F.S., provides prohibitions against sexual misconduct.

Section 468.413, F.S., provides criminal penalties for:

- Operating a talent agency without a license;
- Obtaining a license through misrepresentation;
- Assigning a license to another individual;
- Relocating a talent agency without notifying the Department;
- Failing to provide information on an application regarding related businesses;
- Failing to maintain records;
- Requiring the artist to subscribe to, purchase, or attend any publication, postcard service, advertisement, resume service, photography service, school, acting school, workshop, or acting workshop;
- Failing to provide a copy of the contract to the artist;
- Failing to maintain a record sheet; and
- Knowingly sending an artist to an employer the licensee knows to be in violation of the laws of Florida or of the United States.

As of October 2015, there were 414 talent agency licenses in active status and on average 51 new initial licenses issued annually during the 2012- 2015 fiscal years. There were three disciplinary cases brought against talent agencies during the 2012-2015 fiscal years.<sup>28</sup>

### Effect of the Bill

The bill repeals all of ch. 468, Part VII, F.S., which requires talent agencies to be licensed and regulated by the Department. Specifically, the bill repeals:

- Section 468.401, F.S., providing definitions;
- Section 468.402, F.S., regarding disciplinary action taken against talent agency licenses;
- Section 468.403, F.S., providing license requirements for talent agencies;
- Section 468.404, F.S., regarding setting licensure fees and the requirement that a license be connected to a talent agency;
- Section 468.405, F.S., providing licensure qualifications;
- Section 468.406, F.S., regarding the regulation of fees charged by a talent agency for services;

<sup>22</sup> s. 468.407(2), F.S.

<sup>23</sup> s. 468.408, F.S.

<sup>24</sup> s. 468.409, F.S.

<sup>25</sup> s. 468.410(3), F.S.

<sup>26</sup> s. 468.410(1), F.S.

<sup>27</sup> s. 468.410(2), F.S.

<sup>28</sup> *Supra* note 10.

- Section 468.407, F.S., regarding the posting of the agency license;
- Section 468.408, F.S., requiring the talent agency to obtain a bond;
- Section 468.409, F.S., requiring the talent agency to maintain certain business records;
- Section 468.410, F.S., requiring that talent agencies not charge a registration fee;
- Section 468.411, F.S., prohibiting a talent agency from sending a person to a place where a strike or labor dispute is in progress;
- Section 468.412, F.S., requiring that talent agents maintain specific records and provide the artist with a contract and other specific information;
- Section 468.413, F.S., providing criminal penalties for specific violations;
- Section 468.414, F.S., providing that fees and fines received be deposited in the Professional Regulation Trust Fund; and
- Section 468.415, F.S., prohibiting sexual misconduct in the operation of a talent agency.

The bill does not maintain the civil or criminal provisions provided for in ch. 468, Part VII, nor does it maintain contract or notice requirements.

## **Athlete Agents**

### **Background**

Chapter 468, Part IX, F.S., governs the licensing and regulation of athlete agents in the state. The Athlete Agents program is a program located under the Division of Professions. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the athlete agent industry.

Individuals are prohibited from practicing as an athlete agent in Florida without first being licensed as an athlete agent.<sup>29</sup> An athlete agent is defined as:

[A] person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, or who, for any type of financial gain, procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete, or with any promoter who markets or attempts to market the student athlete's athletic ability or athletic reputation. This term includes all employees and other persons acting on behalf of an athlete agent who participate in the activities included under this subsection. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.<sup>30</sup>

In order to be licensed, an applicant must be at least 18 years of age, of good moral character, and have completed the application form and remitted an application fee of \$500, a licensure fee of \$375, and an unlicensed activity fee of \$5. Athlete agent license holders must pay a biennial renewal fee of \$220.<sup>31</sup>

Licensed athlete agents are required to:

- Comply with specific contract requirements;<sup>32</sup>
- Comply with the prohibited acts,<sup>33</sup> and
- Maintain financial and business records.<sup>34</sup>

<sup>29</sup> s. 468.453(1), F.S.

<sup>30</sup> s. 468.452(2), F.S.

<sup>31</sup> Rule 61-24.004, F.A.C.

<sup>32</sup> s. 468.454, F.S.

<sup>33</sup> s. 468.456, F.S.

<sup>34</sup> s. 468.4565, F.S.

Section 468.45615, F.S., provides criminal penalties for a licensed athlete agent who provides anything of value to any person to induce a student athlete to enter into an agreement by which the agent will represent the student athlete.<sup>35</sup>

As of October 2015, there were 292 athlete agent licenses in active status and on average 49 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any athlete agents during the 2012-2015 fiscal years.<sup>36</sup>

### Effect of the Bill

The bill amends s. 468.452 F.S., to provide that the Legislative Intent of the chapter is “to provide civil and criminal causes of action against athlete agents” for the remaining provisions of ch. 468, Part IX, F.S.

Criminal penalties are maintained for the act of offering anything of value to another person to induce a student athlete to enter into an agreement by which the athlete agent will represent the student athlete is not amended from the language.

The bill repeals all provisions of ch. 468, Part IX, F.S., which require athlete agents to be licensed and regulated by the Department. Specifically, the bill repeals:

- Section 468.453, F.S., regarding the licensure requirements of athlete agents;
- Section 468.4536, F.S., regarding the renewal of athlete agent licenses; and
- Section 468.457, F.S., regarding the Department’s rulemaking authority.

The bill removes the term “department” from the definitions section, and removes any reference to licensure in the contract requirements for contracts between athlete agents and student athletes. Additionally, the bill removes Departmental disciplinary actions that prohibit specific behavior.

### **Asbestos Abatement Business Organization**

#### Background

Chapter 469, F.S., governs the licensing and regulation of asbestos abatement in the state. The Asbestos Licensing Unit is a program located under the Division of Professions. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the asbestos abatement industry.

An asbestos consultant’s license may be issued only to an applicant who holds a current, valid, active license as an architect, professional engineer, and professional geologist; is a diplomat of the American Board of Industrial Hygiene; or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.<sup>37</sup>

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work.<sup>38</sup> A person must be a licensed asbestos consultant in order to:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement; and
- Prepare asbestos abatement specifications.<sup>39</sup>

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<sup>35</sup> s. 468.456(1)(f), F.S.

<sup>36</sup> *Supra* note 10.

<sup>37</sup> Florida Department of Business and Professional Regulation, 2016 Legislative Bill Analysis, Senate Bill 1050, p. 2, (December 16, 2015).

<sup>38</sup> s. 469.003(3), F.S.

<sup>39</sup> s. 469.003, F.S.

If an applicant for licensure as an asbestos consultant or contractor proposed to engage in consulting or contracting as a business organization, such as a corporation or other legal entity, or in any name other than the applicant's legal name, the business organization must be licensed as an asbestos abatement business. Each licensed business organization must have a qualifying agent that is licensed under ch. 469, F.S.,<sup>40</sup> and that is qualified to supervise and is financially responsible. If the qualifying agent terminates his or her affiliation with the business organization and is the only qualifying agent for the business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination, and may not engage in the practice of asbestos abatement until it is qualified.

Applicants for an asbestos abatement business license pay an application fee of \$300, an unlicensed activity fee of \$5, an initial licensure fee of \$250, and a biennial renewal fee of \$250.<sup>41</sup> There is no requirement on the branch office other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 239 asbestos abatement business licenses in active status and on average 12 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any asbestos business licenses during the 2012-2015 fiscal years.<sup>42</sup>

### Effect of the Bill

The bill removes the requirement for asbestos abatement licensees to obtain a separate license for an asbestos abatement business organization. Instead, if an applicant wants to practice under a firm offering asbestos abatement services, the qualifying agent must apply and have the license issued in his or her name and the business organization name must be noted on the license. The qualifying agent must still be a licensee pursuant to ch. 469, F.S., and must still prove he or she is qualified to supervise and is financially responsible.

The bill does not amend the responsibilities of licensees under ch. 469, F.S., or otherwise affect the obligations of asbestos consultants or contractors.

## **Veterinary Acupressure and Massage**

### Background

Chapter 474, F.S., governs the licensing and regulation of veterinarians in the state. The Board of Veterinarian Medicine is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the veterinary medicine industry.

Individuals are prohibited from practicing veterinary medicine in Florida without first being licensed as a veterinarian.<sup>43</sup> A "veterinarian" is defined as "a health care practitioner who is licensed to engage in the practice of veterinary medicine in Florida under the authority of this chapter."<sup>44</sup> "Veterinary medicine" includes, "with respect to animals, surgery, acupuncture, obstetrics, dentistry, physical therapy, radiology, theriogenology, and other branches or specialties of veterinary medicine."<sup>45</sup>

Various education facilities provide classes teaching "veterinary acupressure" and "veterinary massage" to persons not seeking licensure as veterinarians. "Veterinary acupressure" is the stimulation

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<sup>40</sup> s. 469.006, F.S.

<sup>41</sup> Rule 61E1-3.001, F.A.C.

<sup>42</sup> *Supra* note 10.

<sup>43</sup> s. 474.213, F.S.

<sup>44</sup> s. 474.202(11), F.S.

<sup>45</sup> s. 474.202(13), F.S.

with finger pressure, rather than the insertion of needles, of the same points on an animal's body which are targeted in acupuncture. "Veterinary massage" is the use of fingers, hands, and machines to manipulate the animal's soft tissues to improve the healing and recovery of the animal. Neither term includes the prescribing of drugs or the diagnoses or prognosis of a medical condition.

Currently, veterinary massage and acupressure fall under the scope of veterinary medicine and therefore must be performed under the supervision of a licensed veterinarian. The Department does not have a separate license for veterinary acupressure or massage. However, there have been no disciplinary cases brought against any individuals regarding either veterinary massage or acupressure during the 2012-2015 fiscal years.<sup>46</sup>

### Effect of the Bill

The bill provides that veterinary acupressure and veterinary massage are exempt from the application of ch. 474, F.S., and regulation under the Board of Veterinary Medicine. Therefore, persons performing veterinary acupressure and veterinary massage will not be required to be under the supervision of a veterinarian.

The bill further defines "veterinary acupressure" and "veterinary massage" as indicated.

### Nail Painting

#### Background

Chapter 477, F.S., governs the licensing and regulation of cosmetologists, hair wrappers, hair braiders, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state. The Board of Cosmetology is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the cosmetology industry.

Individuals are prohibited from providing manicures or pedicures in Florida without first being registered as a nail specialist, full specialist, or cosmetologist.

A "specialist" is defined as "any person holding a specialty registration in one or more of the specialties registered under [ch. 477, F.S.]."<sup>47</sup> The term "specialty" is defined as "the practice of one or more of the following:

- Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive;
- Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet; and
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services."<sup>48</sup>

The term "cosmetologist" is defined as "a person who is licensed to engage in the practice of cosmetology..."<sup>49</sup> The term "cosmetology" is defined as "the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for

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<sup>46</sup> *Supra* note 10.

<sup>47</sup> s. 477.013(5), F.S.

<sup>48</sup> s. 477.013(6), F.S.

<sup>49</sup> s. 477.013(3), F.S.

compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.”<sup>50</sup>

A nail specialist may complete manicures and pedicures. A full specialist may complete manicures, pedicures, and facials. Manicures and pedicures, as a part of cosmetology services, are required to be provided in a licensed specialty salon or cosmetology salon.<sup>51</sup> All cosmetology and specialty salons are subject to inspection by the Department.<sup>52</sup>

To qualify for a specialist license, the applicant must be at least 16 years old, obtain a certificate of completion from an approved specialty education program, and submit an application for registration with the Department with the registration fee.<sup>53</sup>

To qualify for a license as a cosmetologist, the applicant must be at least 16 years old, have received a high school diploma, have submitted an application with the applicable fee and examination fee, and have either a license in another state or country for at least one year, or have received 1,200 hours training including completing an education at an approved cosmetology school or program. The applicants must also pass all parts of the licensure examination.<sup>54</sup>

The act of painting nails with fingernail polish falls under the scope of manicuring, even if the individual is not cutting, cleansing, adding, or extending the nails. Therefore, individuals seeking to add polish to fingernails and toenails for compensation are required to obtain a registration as a specialist or a license as a cosmetologist. The Department does not have a separate license for polishing nails. There have been three disciplinary cases brought against unlicensed individuals regarding the polishing of nails during the 2012-2015 fiscal years.<sup>55</sup>

### Effect of the Bill

The bill amends s. 477.0135, F.S., to provide an exemption to the licensure and registration requirements of ch. 477, F.S., permitting individuals whose occupation or practice is solely confined to adding polish to fingernails and toenails to practice without obtaining a license or registration first.

### **Hair Wrapping and Body Wrapping**

#### Background

Persons who wish to practice hair wrapping or body wrapping must register with the Department.<sup>56</sup>

Hair wrapping is defined as “wrapping of manufactured materials around a strand or strands of human hair, for compensation, without cutting, coloring, permanent waving, relaxing, removing, weaving, chemically treating, braiding, using hair extensions, or performing any other service defined as cosmetology.”<sup>57</sup>

Body wrapping is defined as “a treatment program that uses herbal wraps for the purposes of cleansing and beautifying the skin of the body, but does not include:

- The application of oils, lotions, or other fluids to the body, except fluids contained in presoaked materials used in the wraps; or

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<sup>50</sup> s. 477.013(4), F.S.

<sup>51</sup> s. 477.0263, F.S.

<sup>52</sup> s. 477.025, F.S.

<sup>53</sup> s. 477.0201, F.S.

<sup>54</sup> s. 477.019(2), F.S.

<sup>55</sup> *Supra* note 10.

<sup>56</sup> s. 477.0132(1), F.S.

<sup>57</sup> s. 477.013(10), F.S.

- Manipulation of the body's superficial tissue, other than that arising from compression emanating from the wrap materials."<sup>58</sup>

To qualify for a hair wrapping or body wrapping registration, the applicant must submit a registration application with the Department, provide the registration fee, and take a two-day, 12-hour, board-approved course that consists of education in HIV/AIDS and other communicable diseases, sanitation and sterilization, disorders and diseases of the skin, and studies regarding laws affecting hair wrapping or body wrapping.<sup>59</sup>

At the time of application, applicants for a hair wrapping or body wrapping registration must pay a registration fee of \$20 and an unlicensed activity fee of \$5. Registration holders must pay a biennial renewal fee of \$20.<sup>60</sup>

As of October 2015, there were 908 registered hair wrappers in active status and on average 270 new initial licenses issued annually during the 2012- 2015 fiscal years. There were nine disciplinary cases brought against hair wrappers during the 2012-2015 fiscal years.<sup>61</sup>

As of October 2015, there were 5715 registered body wrappers in active status and on average 1298 new initial licenses issued annually during the 2012- 2015 fiscal years. There were two disciplinary cases brought against body wrappers during the 2012-2015 fiscal years.<sup>62</sup>

### Effect of the Bill

The bill repeals all provisions of ch. 477, F.S., which require hair wrappers or body wrappers to be registered and regulated by the Department. Additionally, the bill removes references to the hair wrappers registration requirements, including education and fees.

The bill removes disciplinary actions against persons who provide body wrapping services.

The bill amends s. 477.0135, F.S., to provide an exemption to the requirements of ch. 477, F.S., for individuals whose occupation or practice is solely confined to hair wrapping or body wrapping.

## **Architecture Business or Interior Design Organization**

### Background

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations in the state. The Board of Architecture and Interior Design is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the architecture and interior design industries.

"The practice of or the offer to practice architecture or interior design by licensees through a corporation, limited liability company, or partnership offering architectural or interior design services to the public, or by a corporation, limited liability company, or partnership offering architectural or interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted, subject to the provisions of [ch. 481, Part I, F.S.]."<sup>63</sup> An architecture or interior

<sup>58</sup> s. 477.013(12), F.S.

<sup>59</sup> Id. at note 57.

<sup>60</sup> Rule 61G5-24.019, F.A.C.

<sup>61</sup> *Supra* note 10.

<sup>62</sup> *Id.*

<sup>63</sup> s. 481.219(1), F.S.

design business corporation, limited liability company, or partnership, which is offering architecture or interior design service to the public, must obtain a certificate of authorization prior to practicing.<sup>64</sup>

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of \$100.00, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125.<sup>65</sup> There is no requirement on the business entity other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 2747 architecture business licenses in active status and on average 203 new initial licenses issued annually during the 2012- 2015 fiscal years. There were 17 disciplinary cases brought against architecture business licenses during the 2012-2015 fiscal years.<sup>66</sup>

As of October 2015, there were 1047 interior design business licenses in active status and on average 98 new initial licenses issued annually during the 2012- 2015 fiscal years. There were five disciplinary cases brought against interior design business licenses during the 2012-2015 fiscal years.<sup>67</sup>

### Effect of the Bill

The bill repeals all provisions of ch. 481, Part I, F.S., which require licensees to obtain a certificate of authorization to practice architecture or interior design through a business organization. Instead, a licensed architect or interior designer must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of architecture or interior design as a business organization. The application submitted by a licensee to qualify a business organization must state:

- The names of the partners if it's a partnership;
- The names of the corporation and its officers if it's a corporation, including the names of its stockholders that are also officers or directors;
- The fictitious name under which the business is doing business if it's operating under a fictitious name; and
- The name of such other legal entity and its members, if it's not a partnership, corporation, or operating under a fictitious name.

The bill repeal's the Department's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation, limited liability company, or partnership offering architectural or interior design services. Additionally, it removes the authority for the Department to renew the certificate or authorization or adopt rules establishing a procedure for biennial renewal of certificates of authorization.

The Board of Architecture and Interior Design may deny an application to qualify a business organization if the applicant or any person required to be named in the application has been involved in disciplinary actions or other grounds for which individual registration or certification may be denied.

The qualifying agent is jointly and severally liable with the business organization for any damages resulting from the actions of the business organization.

If the qualifying agent terminates his or her affiliation with the business organization and is the only qualifying agent for the business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination, and may not engage in the practice of architecture or interior design until it is qualified, with one exception. The executive director or chair of the Board of Architecture and Interior Design may grant a temporary, nonrenewable certificate or registration to a licensee in supervising control, the president, a managing member, a partner, or the general partner of

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<sup>64</sup> s. 481.219(2)-(3), F.S.

<sup>65</sup> Rules 61G1-17.001 and 61G1-17.002, F.A.C.

<sup>66</sup> *Supra* note 10.

<sup>67</sup> *Supra* note 10.

a limited partnership, for the purpose of allowing the business organization to begin or continue work required under an incomplete contract.

The bill defines "incomplete contract" to mean:

- A contract that has been awarded to, or entered into by, the business organization before the termination of affiliation of the qualifying agent; or
- A contract on which the business organization was a low bidder and that is subsequently awarded to the business organization, regardless of whether any work has commenced before the termination of the qualifying agent.

The qualifying agent must provide notice to the Department when he or she begins to conduct business in his or her own name or with another business organization following the previous termination. The qualifying agent or the new business organization must submit the required application information.

The qualifying agent must ensure responsible supervising control of projects of the business organization and upon termination of his or her employment with a business organization that he or she qualified, shall notify the Department of the termination within 30 days of the termination.

### **Landscape Architecture Business Organization**

#### **Background**

Chapter 481, Part II, F.S., governs the licensing and regulation of landscape architects and related business organizations in the state. The Board of Landscape Architecture is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the landscape architecture industry.

A person may not knowingly practice landscape architecture unless the person holds a valid license issued pursuant to ch. 481, Part II, F.S.<sup>68</sup>

A corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of ch. 481, Part I, F.S., if:

- One or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect; and
- The corporation or partnership has been issued a certificate of authorization by the board.<sup>69</sup>

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$450, an unlicensed activity fee of \$5, and a biennial renewal fee of \$337.50.<sup>70</sup> There is no requirement on the business entity other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 347 architecture business licenses in active status and on average 31 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any landscape architecture business licenses during the 2012-2015 fiscal years.<sup>71</sup>

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<sup>68</sup> s. 481.323(1)(a), F.S.

<sup>69</sup> s. 481.319(1), F.S.

<sup>70</sup> Rule 61G10-12.002, F.A.C.

<sup>71</sup> *Supra* note 10.

### Effect of the Bill

The bill repeals all provisions of ch. 481, Part II, F.S., which require licensees to obtain a certificate of authorization to practice landscape architecture through a business organization. Instead, a licensed landscape architect must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of landscape architecture as a business organization.

The bill repeals the Department's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation, limited liability company, or partnership offering landscape architectural services. Furthermore, the bill repeals the board's ability to grant a temporary certificate of authorization for a business organization that is seeking to work on one project in Florida for a period not to exceed a year to an out-of-state corporation, partnership, or firm.

The bill provides that a corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of ch. 481, Part I, F.S., if:

- One or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect; and
- One or more of the officers, directors, or owners of the corporation, or one or more of the partners of the partnership is a licensed landscape architect.

The qualifying agent must provide notice to the Department within one month of any change in the information contained in the licensee application.

The bill removes disciplinary actions against certificates of authorization for business organizations. The bill did not modify the personal liability of a landscape architect for his or her professional acts.

### **Low Voltage Communication Cable**

#### Background

Chapter 489, Part II, F.S., governs the licensing and regulation of electrical contractors, alarm system contractors, and certain specialty contractors in the state. The Electrical Contractors' Licensing Board is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the electrical contracting industry.

The term "electrical contractor" is defined as:

[A] person who conducts business in the electrical trade field and who has the experience, knowledge, and skill to install, repair, alter, add to, or design, in compliance with law, electrical wiring, fixtures, appliances, apparatus, raceways, conduit, or any part thereof, which generates, transmits, transforms, or utilizes electrical energy in any form, including the electrical installations and systems within plants and substations, all in compliance with applicable plans, specifications, codes, laws, and regulations. The term means any person, firm, or corporation that engages in the business of electrical contracting under an express or implied contract; or that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of electrical contracting; or that does itself or by or through others engage in the business of electrical contracting.<sup>72</sup>

The term "alarm system contractor" is defined as:

[A] person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems for compensation, including,

but not limited to, all types of alarm systems for all purposes. This term also means any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract; that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of alarm contracting; or that by itself or by or through others engages in the business of alarm contracting.

The term "specialty contractor" as referenced in ch. 489, Part II, F.S., is defined as:

[A] contractor whose scope of practice is limited to a specific segment of electrical or alarm system contracting established in a category adopted by board rule, including, but not limited to, residential electrical contracting, maintenance of electrical fixtures, and fabrication, erection, installation, and maintenance of electrical advertising signs together with the interrelated parts and supports...<sup>73</sup>

The board created a "Limited Energy Systems" specialty, clarifying the scope of the specialty license to include "the installation, repair, fabrication, erection, alteration, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, conduit, and fiber optics (transmission of light over stranded glass) or any part thereof not to exceed 98 volts, (RMS). The scope of work of this license does not include installation, repair, fabrication, erection, alteration, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, conduit, that are part of an alarm system."<sup>74</sup>

The act of installing low voltage communication cabling currently falls under the scope of practice of a limited energy systems specialty license, electrical residential contractor license, and alarm systems contractor license. Therefore, currently, an individual wishing to do so for compensation is required to obtain one of the listed licenses prior to completing the work.

Section 489.503(14), F.S., provides an exemption from licensure requirements for the selling, installing, repairing, altering, adding, or designing of low voltage communication cabling by employees of cable or communication companies operating under a certificate issued under ch. 364 or ch. 610, F.S., or under a local franchise or right-of-way agreement.

### **Effect of the Bill**

The bill removes the part of the provision exempting only employees of cable and communication companies operating under a certificate issued under ch. 364 or ch. 610, F.S., or under a local franchise or right-of-way agreement from licensing requirements when selling, installing, repairing, altering, adding, or designing low voltage communication cabling. Thereby, the bill expands the exemption to apply to all persons that sell, install, repair, alter, add, or design low voltage communication cabling as described in s. 489.503(14), F.S.

The Department has not had any disciplinary cases brought against individuals installing low voltage data or communication cabling during the 2012-2015 fiscal years.<sup>75</sup>

### **Low-Voltage Landscape Lighting**

#### **Background**

The act of installing low voltage landscape lighting systems that plug into existing receptacles currently falls under the scope of practice of a limited energy systems specialty license, electrical residential contractor license, and alarm systems contractor license. Therefore, an individual wishing to do so for compensation is currently required to obtain one of the listed licenses prior to completing the work.

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<sup>73</sup> s. 489.505(19), F.S.

<sup>74</sup> Rule 61G6-7.001(4), F.A.C.

<sup>75</sup> *Supra* note 10.

The Department has not had any disciplinary cases brought against individuals installing low voltage landscape lighting systems that plug into existing receptacles during the 2012-2015 fiscal years.<sup>76</sup>

### Effect of the Bill

The bill provides an express exemption from ch. 489, F.S., for persons who install low-voltage landscape lighting containing a factory-installed electrical cord with a plug which does not require installation, wiring, or a modification to the electrical wiring in a structure.

## **Burglar Alarm Systems Agents**

### Background

A licensed electrical or alarm system contractor may hire a burglar alarm system agent to perform elements of alarm system contracting. A burglar alarm systems agent is defined as a person:

- Who is employed by a licensed alarm system contractor or licensed electrical contractor;
- Who is performing duties which are an element of an activity which constitutes alarm system contracting requiring licensure under this part; and
- Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring an intrusion or burglar alarm system for compensation.<sup>77</sup>

A licensed electrical or alarm system contractor may not employ a person as a burglar alarm system agent unless that person:

- Is at least 18 years old;
- Has completed a minimum of 14 hours of specific training from a board-approved provider;
- Has not been convicted within the previous three years of a crime directly related to the employment; and
- Has not been committed for controlled substance abuse or been found guilty of a crime under chapter 893, F.S., within the previous three years.<sup>78</sup>

Each burglar alarm system agent must receive six hours of continuing education on burglar alarm system installation and repair and false alarm prevention every two years from a board-approved sponsor of training and through a board-approved training course.<sup>79</sup>

The Department has not had any disciplinary cases brought against burglar alarm agents during the 2012-2015 fiscal years.<sup>80</sup>

### Effect of the Bill

The bill removes the requirement that an alarm systems agent obtain 14 hours of specific training from the board-approved provider if the agent only performs sales or installations of wireless alarm systems other than fire alarm systems, in single-family residences.

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<sup>76</sup> *Supra* note 10.

<sup>77</sup> s. 489.505(25), F.S.

<sup>78</sup> s. 489.518(1), F.S.

<sup>79</sup> s. 489.518(6), F.S.

<sup>80</sup> *Supra* note 10.

## **Geology Business Organization**

### **Background**

Chapter 492, F.S., governs the licensing and regulation of geologists and related business organizations in the state. The Board of Professional Geologists is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the geology industry.

A person may not knowingly practice geology unless the person holds a valid license issued pursuant to ch. 492.<sup>81</sup> An individual may not practice geology through a firm, corporation, or partnership offering geological services to the public unless the firm, corporation, or partnership has been issued a certificate of authorization.<sup>82</sup> A firm, corporation, or partnership is permitted to offer geological services to the public, subject to the provisions of ch. 492, F.S., if:

- At all times, the entity has on file with the Department the name and license number of one or more licensed geologists serving as a geologist with the entity;
- The entity has been issued a certification of authorization by the Department;
- All final geological documents prepared or approved for the use of the entity shall be dated and signed and sealed by the licensed geologist;
- The entity is not relieved of personal liability due to the fact that a licensed geologist practices at the entity; and
- The entity files with the Department an application.<sup>83</sup>

Applicants for a geology business certificate of authorization must pay an application fee of \$350.00, an unlicensed activity fee of \$5, and a biennial renewal fee of \$350.<sup>84</sup> There is no requirement on the business entity other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 373 geology business licenses in active status and on average 27 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any geology business licenses during the 2012-2015 fiscal years.<sup>85</sup>

### **Effect of the Bill**

The bill repeals all provisions of ch. 492, F.S., which require licensees to obtain a certificate of authorization to practice geology through a business organization. Instead, a licensed geologist must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of geology as a firm, corporation, or partnership.

The qualifying agent is required to update the Department of any changes in the relationship between himself or herself and the business organization.

The bill repeals the Department's authority to issue a certificate of authorization to an applicant wishing to practice as a firm, corporation, or partnership offering geological services.

#### **B. SECTION DIRECTORY:**

**Section 1** amends s. 326.004, F.S., deleting a requirement that yacht and ship brokers maintain a separate license for each branch office.

**Section 2** amends s. 447.02, F.S., deleting a definition.

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<sup>81</sup> s. 492.112(1)(a), F.S.

<sup>82</sup> s. 492.111(2), F.S.

<sup>83</sup> s. 492.111, F.S.

<sup>84</sup> Rule 61G10-12.002, F.A.C.

<sup>85</sup> *Supra* note 10.

**Section 3** repeals s. 447.04, F.S., relating to business agents, licenses, and permits.

**Section 4** repeals s. 447.041, F.S., relating to hearings.

**Section 5** repeals s. 447.045, F.S., relating to certain confidential information.

**Section 6** repeals s. 447.06, F.S., relating to the required registration of labor organizations.

**Section 7** amends s. 447.09, F.S., deleting prohibitions against specified actions.

**Section 8** repeals s. 447.12, F.S., relating to registration fees.

**Section 9** repeals s. 447.16, F.S., relating to the applicability of ch. 447, F.S.

**Section 10** repeals part VII of ch. 468, F.S., relating to the regulation of talent agencies.

**Section 11** amends s. 468.451, F.S., revising legislative intent related to the regulation of athlete agents.

**Section 12** reorders and amends s. 468.452, F.S., deleting the term "department."

**Section 13** repeals s. 468.453, F.S., relating to the licensure of athlete agents.

**Section 14** repeals s. 468.4536, F.S., relating to renewal of athlete agent licenses.

**Section 15** amends s. 468.454, F.S., revising the information that must be stated in agent contracts.

**Section 16** repeals s. 468.456, F.S., relating to prohibited acts for athlete agents.

**Section 17** repeals s. 468.4561, F.S., relating to unlicensed activity and penalties for violations.

**Section 18** amends s. 468.45615, F.S., conforming provisions to changes made.

**Section 19** amends s. 468.4565, F.S.; deleting provisions authorizing the Department to access and inspect certain records of athlete agents and related disciplinary actions and subpoena powers.

**Section 20** repeals s. 468.457, F.S., relating to rulemaking authority.

**Section 21** amends s. 469.006, F.S., providing requirements for a qualifying agent.

**Section 22** amends s. 469.009, F.S., deleting the authority of the Department to reprimand, censure, or impose probation on certain business organizations.

**Section 23** amends s. 474.203, F.S., excluding veterinary acupuncture and massage from ch. 474, F.S.

**Section 24** amends s. 477.0132, F.S., excluding the practices of hair wrapping and body wrapping from regulation under the Florida Cosmetology Act.

**Section 25** amends s. 477.0135, F.S., providing that a license or registration is not required for a person whose occupation or practice is confined solely to adding polish to nails or solely to hair wrapping or body wrapping.

**Sections 26, 27, 28, and 29** amend ss. 477.019, 477.026, 477.0265, and 477.029, F.S., conforming provisions to changes made by the act.

**Section 30** amends s. 481.203, F.S., amending definitions.

**Section 31** amends s. 481.219, F.S., providing requirements for a licensee that qualifies an architecture or interior design business organization.

**Sections 32 and 33** amend ss. 481.221 and 481.229, F.S., conforming provisions to changes made by the act.

**Section 34** reorders and amends s. 481.303, F.S., deleting the term "certificate of authorization."

**Section 35** amends s. 481.321, F.S., revising provisions that require persons to display certificate numbers under certain circumstances.

**Sections 36, 37, and 38** amend ss. 481.311, 481.317, and 481.319, F.S., conforming provisions to changes made by the act.

**Section 39** amends s. 481.329, F.S., conforming a cross-reference

**Section 40** amends s. 489.503, F.S., exempting a person who installs certain low-voltage landscape lighting from specified requirements.

**Section 41** amends s. 489.518, F.S., exempting certain persons from initial training for burglar alarm system agents.

**Section 42** amends s. 492.111, F.S., requiring a geology firm, corporation, or partnership to be qualified by one or more individuals licensed as a professional geologist under certain circumstances.

**Sections 43, 44, and 45** amend ss. 492.104, 492.113, and 492.115, F.S., conforming provisions to changes made by the act.

**Section 46** provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The revenue reduction to state government is anticipated to be \$1,899,192 (\$1,884,392 from the Professional Regulation Trust Fund and \$14,800 from the Division of Condominiums, Timeshares and Mobile Homes Trust Fund) over the next three fiscal years (FY 2016-17 to FY 2018-19). As a result, there will be a reduction of approximately \$151,936 in the 8% revenue service charge sent to the General Revenue Fund.

<b>Revenue Reduction</b>		
2016-17	2017-18	2018-19
Condominiums (Yacht and Ship Brokers) (\$6,100)	Condominiums (Yacht and Ship Brokers) (\$2,600)	Condominiums (Yacht and Ship Brokers) (\$6,100)
Professions (\$346,059)	Professions (\$1,192,274)	Professions (\$346,059)

While the reduction in revenues is significant, the Professional Regulation Trust Fund is projected to have a sufficient cash balance moving forward.

<b>Professional Regulation Trust Fund</b>			
	FY 2016-17	FY 2017-18	FY 2018-19
Beginning Balance	51,822,395	61,105,450	65,188,002
Estimated Revenue	81,079,939	75,759,960	79,709,884
Impact of HB 1187	(346,059)	(1,192,274)	(346,059)
Total Revenue	80,733,880	74,567,686	79,363,825
Estimated Expenditures	71,450,825	70,485,134	71,849,485
<b>Estimated Year-End Balance</b>	<b>61,105,450</b>	<b>65,188,002</b>	<b>72,702,341</b> <sup>86</sup>

#### 2. Expenditures:

Due to the reduction in revenues, the Department will have less expenditures in the form of a surcharge to General Revenue.

<b>Expenditure Reduction</b>		
2016-17	2017-18	2018-19
Condominiums (Yacht and Ship Brokers) (\$488)	Condominiums (Yacht and Ship Brokers) (\$208)	Condominiums (Yacht and Ship Brokers) (\$488)
Professions (\$27,685)	Professions (\$95,382)	Professions (\$27,685)

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

<sup>86</sup> January 25, 2016, e-mail from Department of Business and Professional Regulation staff on file with the Government Operations Appropriations Subcommittee  
**STORAGE NAME:** h1187b.GOAS  
**DATE:** 2/15/2016

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Numerous professions will no longer be required to obtain a license in order to practice, resulting in the following fee reductions:

Condominiums: (Yacht and Ship Brokers) Expenditure reduction of approximately \$6,100 in Fiscal Year 2016-17, \$2,600 in Fiscal Year 2017-18 and \$6,100 in Fiscal Year 2018-19.

Professions: Licensees will see an expenditure reduction of approximately \$346,059 in Fiscal Year 2016-17, \$1,192,274 in Fiscal Year 2017-18 and \$346,059 in Fiscal Year 2018-19.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The elimination of certain licenses and registration will necessitate the repeal or amendment of rules regarding those licenses and registrations. According to the Department, the following rules will need to be amended:

- Condominiums (Yacht and Ship Brokers) – Rules 61B-60.001, 61B-60.002, 61B-60.003, 61B-60.005, F. A.C., section 1;
- Talent Agents – Rule 61-19, F.A.C.;
- Athlete Agents – Rules 61-24, 61-35.004, F.A.C.;
- Asbestos – Rule 61E1, F.A.C.;
- Veterinary Medicine – Rule 61G18, F.A.C.;
- Cosmetology Specialties – Rules 61G5-31, 61-35.011, F.A.C.;
- Architecture and Interior Design – Rule 61G1, F.A.C.;
- Landscape Architects – Rules 61G10, 61-35.017, F.A.C.;
- Electrical Contractors – Rules 61G6, 61-35.012, F.A.C.; and
- Professional Geologists – Rule 61G16, F.A.C.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill repeals talent agencies without leaving any civil remedies or corresponding requirements for how talent agencies should conduct their business. Due to the nature of the business and the fact that minors employ the services of talent agencies, the language could be amended to maintain the civil remedies, written contract requirements, and prohibition against sexual misconduct.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.



27 | contract is void and unenforceable; repealing s.  
 28 | 468.456, F.S., relating to prohibited acts for athlete  
 29 | agents; repealing s. 468.4561, F.S., relating to  
 30 | unlicensed activity and penalties for violations;  
 31 | amending s. 468.45615, F.S.; conforming provisions to  
 32 | changes made by the act; amending s. 468.4565, F.S.;  
 33 | deleting provisions authorizing the Department of  
 34 | Business and Professional Regulation to access and  
 35 | inspect certain records of athlete agents and related  
 36 | disciplinary actions and subpoena powers; repealing s.  
 37 | 468.457, F.S., relating to rulemaking authority;  
 38 | amending s. 469.006, F.S.; requiring that a license be  
 39 | in the name of a qualifying agent rather than the name  
 40 | of a business organization; requiring the qualifying  
 41 | agent, rather than the business organization, to  
 42 | report certain changes in information; conforming  
 43 | provisions to changes made by the act; amending s.  
 44 | 469.009, F.S.; deleting the authority of the  
 45 | department to reprimand, censure, or impose probation  
 46 | on certain business organizations; amending s.  
 47 | 474.203, F.S.; excluding veterinary acupuncture and  
 48 | massage from certain provisions in ch. 474, F.S.;  
 49 | defining terms; amending s. 477.0132, F.S.; excluding  
 50 | the practices of hair wrapping and body wrapping from  
 51 | regulation under the Florida Cosmetology Act; amending  
 52 | s. 477.0135, F.S.; providing that a license or

53 registration is not required for a person whose  
 54 occupation or practice is confined solely to adding  
 55 polish to nails or solely to hair wrapping or body  
 56 wrapping; amending ss. 477.019, 477.026, 477.0265, and  
 57 477.029, F.S.; conforming provisions to changes made  
 58 by the act; amending s. 481.203, F.S.; defining the  
 59 term "business organization"; deleting the definition  
 60 of the term "certificate of authorization"; amending  
 61 s. 481.219, F.S.; revising the process by which a  
 62 business organization obtains the requisite license to  
 63 perform architectural services; requiring that a  
 64 licensee or an applicant apply to qualify a business  
 65 organization under certain circumstances; specifying  
 66 application requirements; authorizing the Board of  
 67 Architecture and Interior Design to deny an  
 68 application under certain circumstances; requiring  
 69 that a qualifying agent be a registered architect or a  
 70 registered interior designer under certain  
 71 circumstances; requiring that a qualifying agent  
 72 notify the department when she or he ceases to be  
 73 affiliated with a business organization; prohibiting a  
 74 business organization from engaging in certain  
 75 practices until it is qualified by a qualifying agent;  
 76 authorizing a business organization to proceed with  
 77 specified contracts under a temporary certificate in  
 78 certain circumstances; defining the term "incomplete

79 | contract"; requiring the qualifying agent to give  
 80 | written notice to the department before engaging in  
 81 | practice under her or his own name or in affiliation  
 82 | with another business organization; requiring the  
 83 | board to certify an applicant to qualify one or more  
 84 | business organizations or to operate using a  
 85 | fictitious name under certain circumstances;  
 86 | specifying that a qualifying agent for a business  
 87 | organization is jointly and severally liable with the  
 88 | business organization for certain damages; conforming  
 89 | provisions to changes made by the act; amending ss.  
 90 | 481.221 and 481.229, F.S.; conforming provisions to  
 91 | changes made by the act; reordering and amending s.  
 92 | 481.303, F.S.; deleting the term "certificate of  
 93 | authorization"; amending s. 481.321, F.S.; revising  
 94 | provisions that require persons to display certificate  
 95 | numbers under certain circumstances; conforming  
 96 | provisions to changes made by the act; amending ss.  
 97 | 481.311, 481.317, and 481.319, F.S.; conforming  
 98 | provisions to changes made by the act; amending s.  
 99 | 481.329, F.S.; conforming a cross-reference; amending  
 100 | s. 489.503, F.S.; deleting an exemption from  
 101 | regulation for certain persons; exempting a person who  
 102 | installs certain low-voltage landscape lighting from  
 103 | specified requirements; amending s. 489.518, F.S.;  
 104 | exempting certain persons from initial training for

105 burglar alarm system agents; amending s. 492.111,  
 106 F.S.; revising the requirements for an individual to  
 107 practice or offer to practice professional geology  
 108 through a firm, corporation, or partnership; requiring  
 109 a firm, corporation, or partnership to be qualified by  
 110 one or more individuals licensed as a professional  
 111 geologist under certain circumstances; revising  
 112 provisions specifying which persons must notify the  
 113 department of changes in the geologist of record;  
 114 deleting provisions relating to certificates of  
 115 authorization; conforming provisions to changes made  
 116 by the act; amending ss. 492.104, 492.113, and  
 117 492.115, F.S.; conforming provisions to changes made  
 118 by the act; providing an effective date.

119

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

121

122 Section 1. Subsection (13) of section 326.004, Florida  
 123 Statutes, is amended to read:

124 326.004 Licensing.—

125 (13) Each broker must maintain a principal place of  
 126 business in this state and may establish branch offices in the  
 127 state. ~~A separate license must be maintained for each branch~~  
 128 ~~office. The division shall establish by rule a fee not to exceed~~  
 129 ~~\$100 for each branch office license.~~

130 Section 2. Subsection (3) of section 447.02, Florida

131 Statutes, is amended to read:

132 447.02 Definitions.—The following terms, when used in this  
 133 chapter, shall have the meanings ascribed to them in this  
 134 section:

135 ~~(3) The term "department" means the Department of Business~~  
 136 ~~and Professional Regulation.~~

137 Section 3. Section 447.04, Florida Statutes, is repealed.

138 Section 4. Section 447.041, Florida Statutes, is repealed.

139 Section 5. Section 447.045, Florida Statutes, is repealed.

140 Section 6. Section 447.06, Florida Statutes, is repealed.

141 Section 7. Subsections (6) and (8) of section 447.09,  
 142 Florida Statutes, are amended to read:

143 447.09 Right of franchise preserved; penalties.—It shall  
 144 be unlawful for any person:

145 ~~(6) To act as a business agent without having obtained and~~  
 146 ~~possessing a valid and subsisting license or permit.~~

147 ~~(8) To make any false statement in an application for a~~  
 148 ~~license.~~

149 Section 8. Section 447.12, Florida Statutes, is repealed.

150 Section 9. Section 447.16, Florida Statutes, is repealed.

151 Section 10. Part VII of chapter 468, Florida Statutes,  
 152 consisting of ss. 468.401, 468.402, 468.403, 468.404, 468.405,  
 153 468.406, 468.407, 468.408, 468.409, 468.410, 468.411, 468.412,  
 154 468.413, 468.414, and 468.415, is repealed.

155 Section 11. Section 468.451, Florida Statutes, is amended  
 156 to read:

157           468.451 Legislative findings and intent.—The Legislature  
 158 finds that dishonest or unscrupulous practices by agents who  
 159 solicit representation of student athletes can cause significant  
 160 harm to student athletes and the academic institutions for which  
 161 they play. It is the intent of the Legislature to provide civil  
 162 and criminal causes of action against athlete agents to protect  
 163 the interests of student athletes and academic institutions ~~by~~  
 164 ~~regulating the activities of athlete agents.~~

165           Section 12. Subsections (4) through (7) of section  
 166 468.452, Florida Statutes, are reordered and amended to read:

167           468.452 Definitions.—For purposes of this part, the term:

168           ~~(4) "Department" means the Department of Business and~~  
 169 ~~Professional Regulation.~~

170           (6)~~(5)~~ "Student athlete" means any student who:

171           (a) Resides in Florida, has informed, in writing, a  
 172 college or university of the student's intent to participate in  
 173 that school's intercollegiate athletics, or who does participate  
 174 in that school's intercollegiate athletics and is eligible to do  
 175 so; or

176           (b) Does not reside in Florida, but has informed, in  
 177 writing, a college or university in Florida of the student's  
 178 intent to participate in that school's intercollegiate  
 179 athletics, or who does participate in that school's  
 180 intercollegiate athletics and is eligible to do so.

181           (4)~~(6)~~ "Financial services" means the counseling on or the  
 182 making or execution of investment and other financial decisions

183 by the agent on behalf of the student athlete.

184 (5)~~(7)~~ "Participation" means practicing, competing, or  
 185 otherwise representing a college or university in  
 186 intercollegiate athletics.

187 Section 13. Section 468.453, Florida Statutes, is  
 188 repealed.

189 Section 14. Section 468.4536, Florida Statutes, is  
 190 repealed.

191 Section 15. Subsections (2) and (12) of section 468.454,  
 192 Florida Statutes, are amended to read:

193 468.454 Contracts.—

194 (2) An agent contract must state:

195 (a) The amount and method of calculating the consideration  
 196 to be paid by the student athlete for services to be provided by  
 197 the athlete agent and any other consideration the agent has  
 198 received or will receive from any other source under the  
 199 contract;

200 (b) The name of any person ~~not listed in the licensure~~  
 201 ~~application~~ who will be compensated because the student athlete  
 202 signed the agent contract;

203 (c) A description of any expenses that the student athlete  
 204 agrees to reimburse;

205 (d) A description of the services to be provided to the  
 206 student athlete;

207 (e) The duration of the contract; and

208 (f) The date of execution.

209 ~~(12) An agent contract between a student athlete and a~~  
 210 ~~person not licensed under this part is void and unenforceable.~~

211 Section 16. Section 468.456, Florida Statutes, is  
 212 repealed.

213 Section 17. Section 468.4561, Florida Statutes, is  
 214 repealed.

215 Section 18. Section 468.45615, Florida Statutes, is  
 216 amended to read:

217 468.45615 Provision of illegal inducements to athletes  
 218 ~~prohibited; penalties; license suspension.-~~

219 (1) A Any person who offers anything of value to another  
 220 person to induce a student athlete to enter into an agreement by  
 221 which the athlete agent will represent the student athlete  
 222 commits violates s. 468.456(1)(f) is guilty of a felony of the  
 223 second degree, punishable as provided in s. 775.082, s. 775.083,  
 224 s. 775.084, s. 775.089, or s. 775.091. Negotiations regarding an  
 225 athlete agent's fee are not considered an inducement.

226 (2)(a) Regardless of whether adjudication is withheld, any  
 227 person convicted or found guilty of, or entering a plea of nolo  
 228 contendere to, the violation described in subsection (1) may  
 229 ~~shall~~ not employ, utilize, or otherwise collaborate with an a  
 230 ~~licensed or unlicensed~~ athlete agent in Florida to illegally  
 231 recruit or solicit student athletes. Any person who violates the  
 232 provisions of this subsection is guilty of a felony of the  
 233 second degree, punishable as provided in s. 775.082, s. 775.083,  
 234 s. 775.084, s. 775.089, or s. 775.091.

235 (b) Regardless of whether adjudication is withheld, any  
 236 person who knowingly actively assists in the illegal recruitment  
 237 or solicitation of student athletes for a person who has been  
 238 convicted or found guilty of, or entered a plea of nolo  
 239 contendere to, a violation of this section is guilty of a felony  
 240 of the second degree, punishable as provided in s. 775.082, s.  
 241 775.083, s. 775.084, s. 775.089, or s. 775.091.

242 ~~(3) In addition to any other penalties provided in this~~  
 243 ~~section, the court may suspend the license of the person pending~~  
 244 ~~the outcome of any administrative action against the person by~~  
 245 ~~the department.~~

246 (3)(4)(a) An athlete agent, with the intent to induce a  
 247 student athlete to enter into an agent contract, may not:

- 248 1. Give any materially false or misleading information or
- 249 make a materially false promise or representation;
- 250 2. Furnish anything of value to a student athlete before
- 251 the student athlete enters into the agent contract; or
- 252 3. Furnish anything of value to any individual other than
- 253 the student athlete or another athlete agent.

254 (b) An athlete agent may not intentionally:

- 255 1. ~~Initiate contact with a student athlete unless licensed~~  
 256 ~~under this part;~~
- 257 2. Refuse or fail to retain or permit inspection of the
- 258 records required to be retained by s. 468.4565;
- 259 3. ~~Provide materially false or misleading information in~~  
 260 ~~an application for licensure;~~

261            ~~2.4.~~ Predate or postdate an agent contract;  
 262            ~~3.5.~~ Fail to give notice of the existence of an agent  
 263 contract as required by s. 468.454(6); or  
 264            ~~4.6.~~ Fail to notify a student athlete before the student  
 265 athlete signs or otherwise authenticates an agent contract for a  
 266 sport that the signing or authentication may make the student  
 267 athlete ineligible to participate as a student athlete in that  
 268 sport.

269            (c) An athlete agent who violates this subsection commits  
 270 a felony of the second degree, punishable as provided in s.  
 271 775.082, s. 775.083, or s. 775.084.

272            Section 19. Section 468.4565, Florida Statutes, is amended  
 273 to read:

274            468.4565 Business records requirement.—

275            ~~(1)~~ An athlete agent shall establish and maintain complete  
 276 financial and business records. The athlete agent shall save  
 277 each entry into a financial or business record for at least 5  
 278 years after ~~from~~ the date of entry. These records must include:

279            ~~(1)(a)~~ The name and address of each individual represented  
 280 by the athlete agent;

281            ~~(2)(b)~~ Any agent contract entered into by the athlete  
 282 agent; and

283            ~~(3)(c)~~ Any direct costs incurred by the athlete agent in  
 284 the recruitment or solicitation of a student athlete to enter  
 285 into an agent contract.

286            ~~(2) The department shall have access to and shall have the~~

287 ~~right to inspect and examine the financial or business records~~  
 288 ~~of an athlete agent during normal business hours. Refusal or~~  
 289 ~~failure of an athlete agent to provide the department access to~~  
 290 ~~financial and business records shall be the basis for~~  
 291 ~~disciplinary action by the department pursuant to s. 455.225.~~  
 292 ~~The department may exercise its subpoena powers to obtain the~~  
 293 ~~financial and business records of an athlete agent.~~

294 Section 20. Section 468.457, Florida Statutes, is  
 295 repealed.

296 Section 21. Paragraphs (a) and (e) of subsection (2),  
 297 subsection (3), paragraph (b) of subsection (4), and subsection  
 298 (6) of section 469.006, Florida Statutes, are amended to read:

299 469.006 Licensure of business organizations; qualifying  
 300 agents.—

301 (2)(a) If the applicant proposes to engage in consulting  
 302 or contracting as a partnership, corporation, business trust, or  
 303 other legal entity, or in any name other than the applicant's  
 304 legal name, the ~~legal entity must apply for licensure through a~~  
 305 ~~qualifying agent or the individual applicant must apply for~~  
 306 licensure under the name of the business organization ~~fictitious~~  
 307 ~~name.~~

308 (e) ~~A~~ The license, ~~when issued upon application of a~~  
 309 ~~business organization,~~ must be in the name of the qualifying  
 310 agent ~~business organization,~~ and the name of the business  
 311 organization ~~qualifying agent~~ must be noted on the license  
 312 ~~thereon.~~ If there is a change in any information that is

313 required to be stated on the application, the qualifying agent  
 314 ~~business organization~~ shall, within 45 days after such change  
 315 occurs, mail the correct information to the department.

316 (3) The qualifying agent must ~~shall~~ be licensed under this  
 317 chapter in order for the business organization to be qualified  
 318 ~~licensed~~ in the category of the business conducted for which the  
 319 qualifying agent is licensed. If any qualifying agent ceases to  
 320 be affiliated with such business organization, the agent shall  
 321 so inform the department. In addition, if such qualifying agent  
 322 is the only licensed individual affiliated with the business  
 323 organization, the business organization shall notify the  
 324 department of the termination of the qualifying agent and has  
 325 ~~shall have~~ 60 days after ~~from~~ the date of termination of the  
 326 qualifying agent's affiliation with the business organization ~~in~~  
 327 ~~which~~ to employ another qualifying agent. The business  
 328 organization may not engage in consulting or contracting until a  
 329 qualifying agent is employed, unless the department has granted  
 330 a temporary nonrenewable license to the financially responsible  
 331 officer, the president, the sole proprietor, a partner, or, in  
 332 the case of a limited partnership, the general partner, who  
 333 assumes all responsibilities of a primary qualifying agent for  
 334 the entity. This temporary license only allows ~~shall only allow~~  
 335 the entity to proceed with incomplete contracts.

336 (4)

337 (b) Upon a favorable determination by the department,  
 338 after investigation of the financial responsibility, credit, and

339 business reputation of the qualifying agent and the new business  
 340 organization, the department shall issue, without any  
 341 examination, a new license in the qualifying agent's ~~business~~  
 342 ~~organization's~~ name, and the name of the business organization  
 343 ~~qualifying agent~~ shall be noted thereon.

344 (6) Each qualifying agent shall pay the department an  
 345 amount equal to the original fee for licensure ~~of a new business~~  
 346 ~~organization.~~ if the qualifying agent for a business  
 347 organization desires to qualify additional business  
 348 organizations. 7 The department shall require the agent to  
 349 present evidence of supervisory ability and financial  
 350 responsibility of each such organization. Allowing a licensee to  
 351 qualify more than one business organization must ~~shall~~ be  
 352 conditioned upon the licensee showing that the licensee has both  
 353 the capacity and intent to adequately supervise each business  
 354 organization. The department may ~~shall~~ not limit the number of  
 355 business organizations that ~~which~~ the licensee may qualify  
 356 except upon the licensee's failure to provide such information  
 357 as is required under this subsection or upon a finding that the  
 358 ~~such~~ information or evidence ~~as is~~ supplied is incomplete or  
 359 unpersuasive in showing the licensee's capacity and intent to  
 360 comply with the requirements of this subsection. A qualification  
 361 for an additional business organization may be revoked or  
 362 suspended upon a finding by the department that the licensee has  
 363 failed in the licensee's responsibility to adequately supervise  
 364 the operations of the business organization. Failure to

365 adequately supervise the operations of a business organization  
 366 is ~~shall be~~ grounds for denial to qualify additional business  
 367 organizations.

368 Section 22. Subsection (1) of section 469.009, Florida  
 369 Statutes, is amended to read:

370 469.009 License revocation, suspension, and denial of  
 371 issuance or renewal.—

372 (1) The department may revoke, suspend, or deny the  
 373 issuance or renewal of a license; reprimand, censure, or place  
 374 on probation any contractor, consultant, or financially  
 375 responsible officer, ~~or business organization~~; require financial  
 376 restitution to a consumer; impose an administrative fine not to  
 377 exceed \$5,000 per violation; require continuing education; or  
 378 assess costs associated with any investigation and prosecution  
 379 if the contractor or consultant, or business organization or  
 380 officer or agent thereof, is found guilty of any of the  
 381 following acts:

382 (a) Willfully or deliberately disregarding or violating  
 383 the health and safety standards of the Occupational Safety and  
 384 Health Act of 1970, the Construction Safety Act, the National  
 385 Emission Standards for Asbestos, the Environmental Protection  
 386 Agency Asbestos Abatement Projects Worker Protection Rule, the  
 387 Florida Statutes or rules promulgated thereunder, or any  
 388 ordinance enacted by a political subdivision of this state.

389 (b) Violating any provision of chapter 455.

390 (c) Failing in any material respect to comply with the

391 provisions of this chapter or any rule promulgated hereunder.

392 (d) Acting in the capacity of an asbestos contractor or  
 393 asbestos consultant under any license issued under this chapter  
 394 except in the name of the licensee as set forth on the issued  
 395 license.

396 (e) Proceeding on any job without obtaining all applicable  
 397 approvals, authorizations, permits, and inspections.

398 (f) Obtaining a license by fraud or misrepresentation.

399 (g) Being convicted or found guilty of, or entering a plea  
 400 of nolo contendere to, regardless of adjudication, a crime in  
 401 any jurisdiction which directly relates to the practice of  
 402 asbestos consulting or contracting or the ability to practice  
 403 asbestos consulting or contracting.

404 (h) Knowingly violating any building code, lifesafety  
 405 code, or county or municipal ordinance relating to the practice  
 406 of asbestos consulting or contracting.

407 (i) Performing any act which assists a person or entity in  
 408 engaging in the prohibited unlicensed practice of asbestos  
 409 consulting or contracting, if the licensee knows or has  
 410 reasonable grounds to know that the person or entity was  
 411 unlicensed.

412 (j) Committing mismanagement or misconduct in the practice  
 413 of contracting that causes financial harm to a customer.

414 Financial mismanagement or misconduct occurs when:

415 1. Valid liens have been recorded against the property of  
 416 a contractor's customer for supplies or services ordered by the

417 contractor for the customer's job; the contractor has received  
 418 funds from the customer to pay for the supplies or services; and  
 419 the contractor has not had the liens removed from the property,  
 420 by payment or by bond, within 75 days after the date of such  
 421 liens;

422         2. The contractor has abandoned a customer's job and the  
 423 percentage of completion is less than the percentage of the  
 424 total contract price paid to the contractor as of the time of  
 425 abandonment, unless the contractor is entitled to retain such  
 426 funds under the terms of the contract or refunds the excess  
 427 funds within 30 days after the date the job is abandoned; or

428         3. The contractor's job has been completed, and it is  
 429 shown that the customer has had to pay more for the contracted  
 430 job than the original contract price, as adjusted for subsequent  
 431 change orders, unless such increase in cost was the result of  
 432 circumstances beyond the control of the contractor, was the  
 433 result of circumstances caused by the customer, or was otherwise  
 434 permitted by the terms of the contract between the contractor  
 435 and the customer.

436         (k) Being disciplined by any municipality or county for an  
 437 act or violation of this chapter.

438         (l) Failing in any material respect to comply with the  
 439 provisions of this chapter, or violating a rule or lawful order  
 440 of the department.

441         (m) Abandoning an asbestos abatement project in which the  
 442 asbestos contractor is engaged or under contract as a

443 contractor. A project may be presumed abandoned after 20 days if  
 444 the contractor terminates the project without just cause and  
 445 without proper notification to the owner, including the reason  
 446 for termination; if the contractor fails to reasonably secure  
 447 the project to safeguard the public while work is stopped; or if  
 448 the contractor fails to perform work without just cause for 20  
 449 days.

450 (n) Signing a statement with respect to a project or  
 451 contract falsely indicating that the work is bonded; falsely  
 452 indicating that payment has been made for all subcontracted  
 453 work, labor, and materials which results in a financial loss to  
 454 the owner, purchaser, or contractor; or falsely indicating that  
 455 workers' compensation and public liability insurance are  
 456 provided.

457 (o) Committing fraud or deceit in the practice of asbestos  
 458 consulting or contracting.

459 (p) Committing incompetency or misconduct in the practice  
 460 of asbestos consulting or contracting.

461 (q) Committing gross negligence, repeated negligence, or  
 462 negligence resulting in a significant danger to life or property  
 463 in the practice of asbestos consulting or contracting.

464 (r) Intimidating, threatening, coercing, or otherwise  
 465 discouraging the service of a notice to owner under part I of  
 466 chapter 713 or a notice to contractor under chapter 255 or part  
 467 I of chapter 713.

468 (s) Failing to satisfy, within a reasonable time, the

469 terms of a civil judgment obtained against the licensee, or the  
 470 business organization qualified by the licensee, relating to the  
 471 practice of the licensee's profession.

472

473 For the purposes of this subsection, construction is considered  
 474 to be commenced when the contract is executed and the contractor  
 475 has accepted funds from the customer or lender.

476 Section 23. Subsection (9) is added to section 474.203,  
 477 Florida Statutes, to read:

478 474.203 Exemptions.—This chapter does not apply to:

479 (9) The performance of veterinary acupressure or  
 480 veterinary massage.

481 (a) For purposes of this subsection, the term "veterinary  
 482 acupressure" means the stimulation with finger pressure, rather  
 483 than the insertion of needles, of the same points on an animal's  
 484 body which are targeted in acupuncture. The term does not  
 485 include the prescribing of drugs or the diagnosis of or  
 486 prognosis for a medical condition of the animal.

487 (b) For the purposes of this subsection, the term  
 488 "veterinary massage" means the use of fingers, hands, and  
 489 machines to manipulate the animal's soft tissues to improve the  
 490 healing and recovery of the animal. The term does not include  
 491 the prescribing of drugs or the diagnosis of or prognosis for a  
 492 medical condition of the animal.

493

494 For the purposes of chapters 465 and 893, persons exempt

495 | pursuant to subsection (1), subsection (2), or subsection (4)  
 496 | are deemed to be duly licensed practitioners authorized by the  
 497 | laws of this state to prescribe drugs or medicinal supplies.

498 | Section 24. Section 477.0132, Florida Statutes, is amended  
 499 | to read:

500 | 477.0132 Hair braiding, ~~hair wrapping, and body wrapping~~  
 501 | registration.—

502 | (1)(a) Persons whose occupation or practice is confined  
 503 | solely to hair braiding must register with the department, pay  
 504 | the applicable registration fee, and take a two-day 16-hour  
 505 | course. The course shall be board approved and consist of 5  
 506 | hours of HIV/AIDS and other communicable diseases, 5 hours of  
 507 | sanitation and sterilization, 4 hours of disorders and diseases  
 508 | of the scalp, and 2 hours of studies regarding laws affecting  
 509 | hair braiding.

510 | ~~(b) Persons whose occupation or practice is confined~~  
 511 | ~~solely to hair wrapping must register with the department, pay~~  
 512 | ~~the applicable registration fee, and take a one-day 6-hour~~  
 513 | ~~course. The course shall be board approved and consist of~~  
 514 | ~~education in HIV/AIDS and other communicable diseases,~~  
 515 | ~~sanitation and sterilization, disorders and diseases of the~~  
 516 | ~~scalp, and studies regarding laws affecting hair wrapping.~~

517 | ~~(c) Unless otherwise licensed or exempted from licensure~~  
 518 | ~~under this chapter, any person whose occupation or practice is~~  
 519 | ~~body wrapping must register with the department, pay the~~  
 520 | ~~applicable registration fee, and take a two-day 12-hour course.~~

521 ~~The course shall be board approved and consist of education in~~  
 522 ~~HIV/AIDS and other communicable diseases, sanitation and~~  
 523 ~~sterilization, disorders and diseases of the skin, and studies~~  
 524 ~~regarding laws affecting body wrapping.~~

525 ~~(d)~~ Only the board may review, evaluate, and approve a  
 526 course required of an applicant for registration under this  
 527 subsection in the occupation or practice of hair braiding, ~~hair~~  
 528 ~~wrapping, or body wrapping.~~ A provider of such a course is not  
 529 required to hold a license under chapter 1005.

530 (2) Hair braiding is, ~~hair wrapping, and body wrapping~~ are  
 531 not required to be practiced in a cosmetology salon or specialty  
 532 salon. When hair braiding, ~~hair wrapping, or body wrapping~~ is  
 533 practiced outside a cosmetology salon or specialty salon,  
 534 disposable implements must be used or all implements must be  
 535 sanitized in a disinfectant approved for hospital use or  
 536 approved by the federal Environmental Protection Agency.

537 (3) Pending issuance of registration, a person is eligible  
 538 to practice hair braiding, ~~hair wrapping, or body wrapping~~ upon  
 539 submission of a registration application that includes proof of  
 540 successful completion of the education requirements and payment  
 541 of the applicable fees required by this chapter.

542 Section 25. Subsections (7), (8), and (9) are added to  
 543 section 477.0135, Florida Statutes, to read:

544 477.0135 Exemptions.—

545 (7) A license or registration is not required for a person  
 546 whose occupation or practice is confined solely to adding polish

547 to fingernails and toenails.

548 (8) A license or registration is not required for a person  
 549 whose occupation or practice is confined solely to hair wrapping  
 550 as defined in s. 477.013(10).

551 (9) A license or registration is not required for a person  
 552 whose occupation or practice is confined solely to body wrapping  
 553 as defined in s. 477.013(12).

554 Section 26. Paragraph (b) of subsection (7) of section  
 555 477.019, Florida Statutes, is amended to read:

556 477.019 Cosmetologists; qualifications; licensure;  
 557 supervised practice; license renewal; endorsement; continuing  
 558 education.-

559 (7)

560 (b) Any person whose occupation or practice is confined  
 561 solely to hair braiding, ~~hair wrapping, or body wrapping~~ is  
 562 exempt from the continuing education requirements of this  
 563 subsection.

564 Section 27. Paragraph (f) of subsection (1) of section  
 565 477.026, Florida Statutes, is amended to read:

566 477.026 Fees; disposition.-

567 (1) The board shall set fees according to the following  
 568 schedule:

569 (f) For hair braiders, ~~hair wrappers, and body wrappers,~~  
 570 fees for registration shall not exceed \$25.

571 Section 28. Paragraph (f) of subsection (1) of section  
 572 477.0265, Florida Statutes, is amended to read:

573 477.0265 Prohibited acts.-

574 (1) It is unlawful for any person to:

575 (f) Advertise or imply that skin care services ~~or body~~  
 576 ~~wrapping, as performed under this chapter,~~ have any relationship  
 577 to the practice of massage therapy as defined in s. 480.033(3),  
 578 except those practices or activities defined in s. 477.013.

579 Section 29. Paragraph (a) of subsection (1) of section  
 580 477.029, Florida Statutes, is amended to read:

581 477.029 Penalty.-

582 (1) It is unlawful for any person to:

583 (a) Hold himself or herself out as a cosmetologist,  
 584 specialist, or ~~hair wrapper,~~ hair braider, ~~or body wrapper~~  
 585 unless duly licensed or registered, or otherwise authorized, as  
 586 provided in this chapter.

587 Section 30. Subsection (5) of section 481.203, Florida  
 588 Statutes, is amended to read:

589 481.203 Definitions.-As used in this part:

590 (5) "Business organization" means a partnership, a limited  
 591 liability company, a corporation, or an individual operating  
 592 under a fictitious name ~~"Certificate of authorization" means a~~  
 593 ~~certificate issued by the department to a corporation or~~  
 594 ~~partnership to practice architecture or interior design.~~

595 Section 31. Section 481.219, Florida Statutes, is amended  
 596 to read:

597 481.219 Business organization; qualifying agents  
 598 ~~Certification of partnerships, limited liability companies, and~~

599 ~~corporations.-~~

600 (1) A licensee may ~~The practice of or the offer to~~  
 601 practice architecture or interior design ~~by licensees~~ through a  
 602 business organization that offers ~~corporation, limited liability~~  
 603 ~~company, or partnership offering~~ architectural or interior  
 604 design services to the public, or through ~~by~~ a business  
 605 organization that offers ~~corporation, limited liability company,~~  
 606 ~~or partnership offering~~ architectural or interior design  
 607 services to the public through such licensees ~~under this part~~ as  
 608 agents, employees, officers, or partners, ~~is permitted, subject~~  
 609 ~~to the provisions of this section.~~

610 (2) If a licensee or an applicant proposes to engage in  
 611 the practice of architecture or interior design as a business  
 612 organization, the licensee or applicant must apply to qualify  
 613 the business organization ~~For the purposes of this section, a~~  
 614 ~~certificate of authorization shall be required for a~~  
 615 ~~corporation, limited liability company, partnership, or person~~  
 616 ~~practicing under a fictitious name, offering architectural~~  
 617 ~~services to the public jointly or separately. However, when an~~  
 618 ~~individual is practicing architecture in her or his own name,~~  
 619 ~~she or he shall not be required to be certified under this~~  
 620 ~~section. Certification under this subsection to offer~~  
 621 ~~architectural services shall include all the rights and~~  
 622 ~~privileges of certification under subsection (3) to offer~~  
 623 ~~interior design services.~~

624 (a) An application to qualify a business organization

625 must:

626 1. If the business is a partnership, state the names of  
 627 the partnership and its partners.

628 2. If the business is a corporation, state the names of  
 629 the corporation and its officers and directors and the name of  
 630 each of its stockholders who is also an officer or a director.

631 3. If the business is operating under a fictitious name,  
 632 state the fictitious name under which it is doing business.

633 4. If the business is not a partnership, a corporation, or  
 634 operating under a fictitious name, state the name of such other  
 635 legal entity and its members.

636 (b) The board may deny an application to qualify a  
 637 business organization if the applicant or any person required to  
 638 be named pursuant to paragraph (a) has been involved in past  
 639 disciplinary actions or on any grounds for which an individual  
 640 registration or certification may be denied.

641 (3)(a) A business organization may not engage in the  
 642 practice of architecture unless its qualifying agent is a  
 643 registered architect under this part. A business organization  
 644 may not engage in the practice of interior design unless its  
 645 qualifying agent is a registered architect or a registered  
 646 interior designer under this part. A qualifying agent who  
 647 terminates her or his affiliation with a business organization  
 648 shall immediately notify the department of such termination. If  
 649 the qualifying agent who terminates her or his affiliation is  
 650 the only qualifying agent for a business organization, the

651 business organization must be qualified by another qualifying  
 652 agent within 60 days after the termination. Except as provided  
 653 in paragraph (b), such a business organization may not engage in  
 654 the practice of architecture or interior design until it is  
 655 qualified by a qualifying agent.

656 (b) The executive director or chair of the board may grant  
 657 a temporary, nonrenewable certificate or registration to a  
 658 licensee in supervising control, the president, a managing  
 659 member, a partner, or, in the case of a limited partnership, the  
 660 general partner for the purpose of allowing the business  
 661 organization to begin or continue work required under an  
 662 incomplete contract. Such person shall assume all of the  
 663 responsibilities of a qualifying agent. For purposes of this  
 664 paragraph, the term "incomplete contract" means a contract that  
 665 has been awarded to, or entered into by, the business  
 666 organization before the termination of affiliation of the  
 667 qualifying agent with the business organization or a contract on  
 668 which the business organization was the low bidder and that is  
 669 subsequently awarded to the business organization, regardless of  
 670 whether any actual work has commenced under the contract before  
 671 termination of affiliation by the qualifying agent with the  
 672 business organization.

673 (c) A qualifying agent shall notify the department in  
 674 writing before engaging in the practice of architecture or  
 675 interior design in her or his own name or in affiliation with a  
 676 different business organization, and she or he or such business

677 organization shall supply the same information to the department  
 678 as required of applicants under this part ~~For the purposes of~~  
 679 ~~this section, a certificate of authorization shall be required~~  
 680 ~~for a corporation, limited liability company, partnership, or~~  
 681 ~~person operating under a fictitious name, offering interior~~  
 682 ~~design services to the public jointly or separately. However,~~  
 683 ~~when an individual is practicing interior design in her or his~~  
 684 ~~own name, she or he shall not be required to be certified under~~  
 685 ~~this section.~~

686 (4) All final construction documents and instruments of  
 687 service which include drawings, specifications, plans, reports,  
 688 or other papers or documents that involve ~~involving~~ the practice  
 689 of architecture which are prepared or approved for the use of  
 690 the business organization ~~corporation, limited liability~~  
 691 ~~company, or partnership~~ and filed for public record within the  
 692 state must ~~shall~~ bear the signature and seal of the licensee who  
 693 prepared or approved them and the date on which they were  
 694 sealed.

695 (5) All drawings, specifications, plans, reports, or other  
 696 papers or documents prepared or approved for the use of the  
 697 business organization ~~corporation, limited liability company, or~~  
 698 ~~partnership~~ by an interior designer in her or his professional  
 699 capacity and filed for public record within the state must ~~shall~~  
 700 bear the signature and seal of the licensee who prepared or  
 701 approved them and the date on which they were sealed.

702 (6) ~~The department shall issue a certificate of~~

703 ~~authorization to any applicant who the board certifies as~~  
 704 ~~qualified for a certificate of authorization and who has paid~~  
 705 ~~the fee set in s. 481.207.~~

706 ~~(7)~~ The board shall allow ~~certify~~ an applicant to qualify  
 707 one or more business organizations ~~as qualified for a~~  
 708 ~~certificate of authorization~~ to offer architectural or interior  
 709 design services, or to use a fictitious name to offer such  
 710 services, if one of the following criteria is met ~~provided that:~~

711 (a) One or more of the principal officers of the  
 712 corporation or limited liability company, or one or more  
 713 partners of the partnership, and all personnel of the  
 714 corporation, limited liability company, or partnership who act  
 715 in its behalf in this state as architects, are registered as  
 716 provided by this part. ~~or~~

717 (b) One or more of the principal officers of the  
 718 corporation or one or more partners of the partnership, and all  
 719 personnel of the corporation, limited liability company, or  
 720 partnership who act in its behalf in this state as interior  
 721 designers, are registered as provided by this part.

722 ~~(8) The department shall adopt rules establishing a~~  
 723 ~~procedure for the biennial renewal of certificates of~~  
 724 ~~authorization.~~

725 ~~(9) The department shall renew a certificate of~~  
 726 ~~authorization upon receipt of the renewal application and~~  
 727 ~~biennial renewal fee.~~

728 ~~(7)-(10)~~ Each qualifying agent approved to qualify a

729 business organization ~~partnership, limited liability company,~~  
 730 ~~and corporation certified~~ under this section shall notify the  
 731 department within 30 days of any change in the information  
 732 contained in the application upon which the qualification  
 733 ~~certification~~ is based. Any registered architect or interior  
 734 designer who qualifies the business organization shall ensure  
 735 ~~corporation, limited liability company, or partnership as~~  
 736 ~~provided in subsection (7)~~ shall be responsible for ensuring  
 737 responsible supervising control of projects of the business  
 738 organization ~~entity~~ and upon termination of her or his  
 739 employment with a business organization ~~qualified partnership,~~  
 740 ~~limited liability company, or corporation certified~~ under this  
 741 section shall notify the department of the termination within 30  
 742 days.

743 (8) A licensed qualifying agent for a business  
 744 organization is jointly and severally liable with the business  
 745 organization for any damages resulting from the actions of the  
 746 business organization.

747 (9) ~~(11)~~ A business organization is not ~~No corporation,~~  
 748 ~~limited liability company, or partnership shall be~~ relieved of  
 749 responsibility for the conduct or acts of its agents, employees,  
 750 or officers by reason of its compliance with this section.  
 751 However, except as provided in s. 558.0035, the architect who  
 752 signs and seals the construction documents and instruments of  
 753 service is ~~shall be~~ liable for the professional services  
 754 performed, and the interior designer who signs and seals the

755 interior design drawings, plans, or specifications is ~~shall be~~  
 756 liable for the professional services performed.

757 ~~(12) Disciplinary action against a corporation, limited~~  
 758 ~~liability company, or partnership shall be administered in the~~  
 759 ~~same manner and on the same grounds as disciplinary action~~  
 760 ~~against a registered architect or interior designer,~~  
 761 ~~respectively.~~

762 (10) ~~(13)~~ ~~Nothing in~~ This section may not ~~shall~~ be  
 763 construed to mean that a certificate of registration to practice  
 764 architecture or interior design must ~~shall~~ be held by a business  
 765 organization ~~corporation, limited liability company, or~~  
 766 ~~partnership. Nothing in~~ This section does not prohibit ~~prohibits~~  
 767 corporations, limited liability companies, and partnerships from  
 768 joining together to offer architectural, engineering, interior  
 769 design, surveying and mapping, and landscape architectural  
 770 services, or any combination of such services, to the public if,  
 771 ~~provided that~~ each corporation, limited liability company, or  
 772 partnership otherwise meets the requirements of law.

773 (11) ~~(14)~~ A business organization that is qualified by a  
 774 registered architect may ~~Corporations, limited liability~~  
 775 ~~companies, or partnerships holding a valid certificate of~~  
 776 ~~authorization to practice architecture shall be permitted to use~~  
 777 ~~in their title~~ the term "interior designer" or "registered  
 778 interior designer" in its title. ~~designer.~~"

779 Section 32. Subsection (10) of section 481.221, Florida  
 780 Statutes, is amended to read:

781 481.221 Seals; display of certificate number.-

782 (10) Each registered architect or interior designer or  
 783 qualifying agent of a business organization must, ~~and each~~  
 784 ~~corporation, limited liability company, or partnership holding a~~  
 785 ~~certificate of authorization, shall~~ include her or his license  
 786 ~~its certificate~~ number in any newspaper, telephone directory, or  
 787 other advertising medium used by the registered architect or,  
 788 interior designer, or business organization ~~corporation, limited~~  
 789 ~~liability company, or partnership.~~ A business organization  
 790 ~~corporation, limited liability company, or partnership~~ is not  
 791 required to display the certificate number of individual  
 792 registered architects or interior designers employed by or  
 793 working within the business organization ~~corporation, limited~~  
 794 ~~liability company, or partnership.~~

795 Section 33. Paragraphs (a) and (c) of subsection (5) of  
 796 section 481.229, Florida Statutes, are amended to read:

797 481.229 Exceptions; exemptions from licensure.-

798 (5) (a) ~~Nothing contained in~~ This part does not prohibit  
 799 ~~shall prevent~~ a registered architect or a qualified business  
 800 organization ~~partnership, limited liability company, or~~  
 801 ~~corporation holding a valid certificate of authorization to~~  
 802 ~~provide architectural services~~ from performing any interior  
 803 design service or from using the title "interior designer" or  
 804 "registered interior designer."

805 (c) Notwithstanding any other provision of this part, a  
 806 registered architect or qualified business organization

807 ~~certified any corporation, partnership, or person operating~~  
 808 ~~under a fictitious name which holds a certificate of~~  
 809 ~~authorization to provide architectural services~~ must ~~shall~~ be  
 810 qualified, without fee, ~~for a certificate of authorization to~~  
 811 provide interior design services upon submission of a completed  
 812 application for qualification ~~therefor. For corporations,~~  
 813 ~~partnerships, and persons operating under a fictitious name~~  
 814 ~~which hold a certificate of authorization to provide interior~~  
 815 ~~design services, satisfaction of the requirements for renewal of~~  
 816 ~~the certificate of authorization to provide architectural~~  
 817 ~~services under s. 481.219 shall be deemed to satisfy the~~  
 818 ~~requirements for renewal of the certificate of authorization to~~  
 819 ~~provide interior design services under that section.~~

820 Section 34. Section 481.303, Florida Statutes, is  
 821 reordered and amended to read:

822 481.303 Definitions.—As used in this chapter, the term:

823 (1) "Board" means the Board of Landscape Architecture.

824 (3) ~~(2)~~ "Department" means the Department of Business and  
 825 Professional Regulation.

826 (6) ~~(3)~~ "Registered landscape architect" means a person who  
 827 holds a license to practice landscape architecture in this state  
 828 under the authority of this act.

829 (2) ~~(4)~~ "Certificate of registration" means a license  
 830 issued by the department to a natural person to engage in the  
 831 practice of landscape architecture.

832 ~~(5) "Certificate of authorization" means a license issued~~

833 ~~by the department to a corporation or partnership to engage in~~  
 834 ~~the practice of landscape architecture.~~

835 (4)~~(6)~~ "Landscape architecture" means professional  
 836 services, including, but not limited to, the following:

837 (a) Consultation, investigation, research, planning,  
 838 design, preparation of drawings, specifications, contract  
 839 documents and reports, responsible construction supervision, or  
 840 landscape management in connection with the planning and  
 841 development of land and incidental water areas, including the  
 842 use of Florida-friendly landscaping as defined in s. 373.185,  
 843 where, and to the extent that, the dominant purpose of such  
 844 services or creative works is the preservation, conservation,  
 845 enhancement, or determination of proper land uses, natural land  
 846 features, ground cover and plantings, or naturalistic and  
 847 aesthetic values;

848 (b) The determination of settings, grounds, and approaches  
 849 for and the siting of buildings and structures, outdoor areas,  
 850 or other improvements;

851 (c) The setting of grades, shaping and contouring of land  
 852 and water forms, determination of drainage, and provision for  
 853 storm drainage and irrigation systems where such systems are  
 854 necessary to the purposes outlined herein; and

855 (d) The design of such tangible objects and features as  
 856 are necessary to the purpose outlined herein.

857 (5)~~(7)~~ "Landscape design" means consultation for and  
 858 preparation of planting plans drawn for compensation, including

859 specifications and installation details for plant materials,  
 860 soil amendments, mulches, edging, gravel, and other similar  
 861 materials. Such plans may include only recommendations for the  
 862 conceptual placement of tangible objects for landscape design  
 863 projects. Construction documents, details, and specifications  
 864 for tangible objects and irrigation systems shall be designed or  
 865 approved by licensed professionals as required by law.

866 Section 35. Subsection (5) of section 481.321, Florida  
 867 Statutes, is amended to read:

868 481.321 Seals; display of certificate number.-

869 (5) Each registered landscape architect must ~~and each~~  
 870 ~~corporation or partnership holding a certificate of~~  
 871 ~~authorization shall~~ include her or his ~~its~~ certificate number in  
 872 any newspaper, telephone directory, or other advertising medium  
 873 used by the registered landscape architect, corporation, or  
 874 partnership. A corporation or partnership must ~~is not required~~  
 875 ~~to~~ display the certificate number ~~numbers~~ of at least one  
 876 officer, director, owner, or partner who is a individual  
 877 registered landscape architect ~~architects~~ employed by or  
 878 practicing with the corporation or partnership.

879 Section 36. Subsection (4) of section 481.311, Florida  
 880 Statutes, is amended to read:

881 481.311 Licensure.-

882 ~~(4) The board shall certify as qualified for a certificate~~  
 883 ~~of authorization any applicant corporation or partnership who~~  
 884 ~~satisfies the requirements of s. 481.319.~~

885 Section 37. Subsection (2) of section 481.317, Florida  
 886 Statutes, is amended to read:

887 481.317 Temporary certificates.-

888 ~~(2) Upon approval by the board and payment of the fee set~~  
 889 ~~in s. 481.307, the department shall grant a temporary~~  
 890 ~~certificate of authorization for work on one specified project~~  
 891 ~~in this state for a period not to exceed 1 year to an out-of-~~  
 892 ~~state corporation, partnership, or firm, provided one of the~~  
 893 ~~principal officers of the corporation, one of the partners of~~  
 894 ~~the partnership, or one of the principals in the fictitiously~~  
 895 ~~named firm has obtained a temporary certificate of registration~~  
 896 ~~in accordance with subsection (1).~~

897 Section 38. Section 481.319, Florida Statutes, is amended  
 898 to read:

899 481.319 Corporate and partnership practice of landscape  
 900 architecture, ~~certificate of authorization.-~~

901 (1) The practice of or offer to practice landscape  
 902 architecture by registered landscape architects registered under  
 903 this part through a corporation or partnership offering  
 904 landscape architectural services to the public, or through a  
 905 corporation or partnership offering landscape architectural  
 906 services to the public through individual registered landscape  
 907 architects as agents, employees, officers, or partners, is  
 908 permitted, subject to the provisions of this section, if:

909 (a) One or more of the principal officers of the  
 910 corporation, or partners of the partnership, and all personnel

911 of the corporation or partnership who act in its behalf as  
 912 landscape architects in this state are registered landscape  
 913 architects; and

914 (b) One or more of the officers, one or more of the  
 915 directors, one or more of the owners of the corporation, or one  
 916 or more of the partners of the partnership is a registered  
 917 landscape architect; ~~and~~

918 ~~(c) The corporation or partnership has been issued a~~  
 919 ~~certificate of authorization by the board as provided herein.~~

920 (2) All documents involving the practice of landscape  
 921 architecture which are prepared for the use of the corporation  
 922 or partnership shall bear the signature and seal of a registered  
 923 landscape architect.

924 (3) A landscape architect applying to practice in the name  
 925 of a ~~An applicant~~ corporation must shall file with the  
 926 department the names and addresses of all officers and board  
 927 members of the corporation, including the principal officer or  
 928 officers, duly registered to practice landscape architecture in  
 929 this state and, also, of all individuals duly registered to  
 930 practice landscape architecture in this state who shall be in  
 931 responsible charge of the practice of landscape architecture by  
 932 the corporation in this state. A landscape architect applying to  
 933 practice in the name of a ~~An applicant~~ partnership must shall  
 934 file with the department the names and addresses of all partners  
 935 of the partnership, including the partner or partners duly  
 936 registered to practice landscape architecture in this state and,

937 also, of an individual or individuals duly registered to  
 938 practice landscape architecture in this state who shall be in  
 939 responsible charge of the practice of landscape architecture by  
 940 said partnership in this state.

941 (4) Each landscape architect qualifying a partnership or  
 942 ~~and corporation licensed~~ under this part must ~~shall~~ notify the  
 943 department within 1 month of any change in the information  
 944 contained in the application upon which the license is based.  
 945 Any landscape architect who terminates her or his ~~or her~~  
 946 employment with a partnership or corporation licensed under this  
 947 part shall notify the department of the termination within 1  
 948 month.

949 (5) ~~Disciplinary action against a corporation or~~  
 950 ~~partnership shall be administered in the same manner and on the~~  
 951 ~~same grounds as disciplinary action against a registered~~  
 952 ~~landscape architect.~~

953 ~~(6)~~ Except as provided in s. 558.0035, the fact that a  
 954 registered landscape architect practices landscape architecture  
 955 through a corporation or partnership as provided in this section  
 956 does not relieve the landscape architect from personal liability  
 957 for her or his ~~or her~~ professional acts.

958 Section 39. Subsection (5) of section 481.329, Florida  
 959 Statutes, is amended to read:

960 481.329 Exceptions; exemptions from licensure.—

961 (5) This part does not prohibit any person from engaging  
 962 in the practice of landscape design, as defined in s. 481.303(5)

963 ~~s. 481.303(7)~~, or from submitting for approval to a governmental  
 964 agency planting plans that are independent of, or a component  
 965 of, construction documents that are prepared by a Florida-  
 966 registered professional. Persons providing landscape design  
 967 services shall not use the title, term, or designation  
 968 "landscape architect," "landscape architectural," "landscape  
 969 architecture," "L.A.," "landscape engineering," or any  
 970 description tending to convey the impression that she or he is a  
 971 landscape architect unless she or he is registered as provided  
 972 in this part.

973 Section 40. Subsection (14) of section 489.503, Florida  
 974 Statutes, is amended, and subsection (24) is added to that  
 975 section, to read:

976 489.503 Exemptions.—This part does not apply to:

977 (14) The sale of, installation of, repair of, alteration  
 978 of, addition to, or design of electrical wiring, fixtures,  
 979 appliances, thermostats, apparatus, raceways, computers,  
 980 customer premises equipment, customer premises wiring, and  
 981 conduit, or any part thereof, ~~by an employee, contractor,~~  
 982 ~~subcontractor, or affiliate of a company operating under a~~  
 983 ~~certificate issued under chapter 364 or chapter 610, or under a~~  
 984 ~~local franchise or right-of-way agreement,~~ if those items are  
 985 for the purpose of transmitting data, voice, video, or other  
 986 communications, or commands as part of a cable television,  
 987 community antenna television, radio distribution,  
 988 communications, or telecommunications system. An employee,

989 subcontractor, contractor, or affiliate of a company that  
 990 operates under a certificate issued under chapter 364 or chapter  
 991 610, or under a local franchise or right-of-way agreement, is  
 992 not subject to any local ordinance that requires a permit for  
 993 work related to low-voltage electrical work, including related  
 994 technical codes, regulations, and licensure. The scope of this  
 995 exemption is limited to electrical circuits and equipment  
 996 governed by the applicable provisions of Articles 725 (Classes 2  
 997 and 3 circuits only), 770, 800, 810, and 820 of the National  
 998 Electrical Code, current edition, or 47 C.F.R. part 68, ~~and~~  
 999 ~~employees, contractors, and subcontractors of companies, and~~  
 1000 ~~affiliates thereof, operating under a certificate issued under~~  
 1001 ~~chapter 364 or chapter 610 or under a local franchise or right-~~  
 1002 ~~of-way agreement.~~ This subsection does not relieve any person  
 1003 from licensure as an alarm system contractor.

1004 (24) A person who installs low-voltage landscape lighting  
 1005 that contains a factory-installed electrical cord with a plug  
 1006 and does not require installation, wiring, or a modification to  
 1007 the electrical wiring in a structure.

1008 Section 41. Present paragraphs (a) through (e) of  
 1009 subsection (2) of section 489.518, Florida Statutes, are  
 1010 redesignated as paragraphs (b) through (f), respectively, and a  
 1011 new paragraph (a) is added to that subsection, to read:

1012 489.518 Alarm system agents.—

1013 (2) (a) A person who performs only sales or installations  
 1014 of wireless alarm systems, other than fire alarm systems, in a

1015 single-family residence is not required to complete the initial  
 1016 training required for burglar alarm system agents.

1017 Section 42. Section 492.111, Florida Statutes, is amended  
 1018 to read:

1019 492.111 Practice of professional geology by a firm,  
 1020 corporation, or partnership, ~~certificate of authorization.~~—The  
 1021 practice of, or offer to practice, professional geology by  
 1022 individual professional geologists licensed under the provisions  
 1023 of this chapter through a firm, corporation, or partnership  
 1024 offering geological services to the public through individually  
 1025 licensed professional geologists as agents, employees, officers,  
 1026 or partners thereof is permitted subject to the provisions of  
 1027 this chapter, if ~~provided that~~:

1028 (1) At all times that it offers geological services to the  
 1029 public, the firm, corporation, or partnership is qualified by  
 1030 ~~has on file with the department the name and license number of~~  
 1031 one or more individuals who hold a current, active license as a  
 1032 professional geologist in the state and are serving as a  
 1033 geologist of record for the firm, corporation, or partnership. A  
 1034 geologist of record may be any principal officer or employee of  
 1035 such firm or corporation, or any partner or employee of such  
 1036 partnership, who holds a current, active license as a  
 1037 professional geologist in this state, or any other Florida-  
 1038 licensed professional geologist with whom the firm, corporation,  
 1039 or partnership has entered into a long-term, ongoing  
 1040 relationship, as defined by rule of the board, to serve as one

1041 of its geologists of record. ~~It shall be the responsibility of~~  
 1042 ~~the firm, corporation, or partnership and~~ The geologist of  
 1043 record shall ~~to~~ notify the department of any changes in the  
 1044 relationship or identity of that geologist of record within 30  
 1045 days after such change.

1046 (2) ~~The firm, corporation, or partnership has been issued~~  
 1047 ~~a certificate of authorization by the department as provided in~~  
 1048 ~~this chapter. For purposes of this section, a certificate of~~  
 1049 ~~authorization shall be required of any firm, corporation,~~  
 1050 ~~partnership, association, or person practicing under a~~  
 1051 ~~fictitious name and offering geological services to the public;~~  
 1052 ~~except that, when an individual is practicing professional~~  
 1053 ~~geology in her or his own name, she or he shall not be required~~  
 1054 ~~to obtain a certificate of authorization under this section.~~  
 1055 ~~Such certificate of authorization shall be renewed every 2~~  
 1056 ~~years.~~

1057 ~~(3)~~ All final geological papers or documents involving the  
 1058 practice of the profession of geology which have been prepared  
 1059 or approved for the use of such firm, corporation, or  
 1060 partnership, for delivery to any person for public record with  
 1061 the state, shall be dated and bear the signature and seal of the  
 1062 professional geologist or professional geologists who prepared  
 1063 or approved them.

1064 (3)~~(4)~~ Except as provided in s. 558.0035, the fact that a  
 1065 licensed professional geologist practices through a corporation  
 1066 or partnership does not relieve the registrant from personal

1067 liability for negligence, misconduct, or wrongful acts committed  
 1068 by her or him. The partnership and all partners are jointly and  
 1069 severally liable for the negligence, misconduct, or wrongful  
 1070 acts committed by their agents, employees, or partners while  
 1071 acting in a professional capacity. Any officer, agent, or  
 1072 employee of a corporation is personally liable and accountable  
 1073 only for negligent acts, wrongful acts, or misconduct committed  
 1074 by her or him or committed by any person under her or his direct  
 1075 supervision and control, while rendering professional services  
 1076 on behalf of the corporation. The personal liability of a  
 1077 shareholder of a corporation, in her or his capacity as  
 1078 shareholder, may be no greater than that of a shareholder-  
 1079 employee of a corporation incorporated under chapter 607. The  
 1080 corporation is liable up to the full value of its property for  
 1081 any negligent acts, wrongful acts, or misconduct committed by  
 1082 any of its officers, agents, or employees while they are engaged  
 1083 on behalf of the corporation in the rendering of professional  
 1084 services.

1085 ~~(5) The firm, corporation, or partnership desiring a~~  
 1086 ~~certificate of authorization shall file with the department an~~  
 1087 ~~application therefor, upon a form to be prescribed by the~~  
 1088 ~~department, accompanied by the required application fee.~~

1089 ~~(6) The department may refuse to issue a certificate of~~  
 1090 ~~authorization if any facts exist which would entitle the~~  
 1091 ~~department to suspend or revoke an existing certificate of~~  
 1092 ~~authorization or if the department, after giving persons~~

1093 ~~involved a full and fair hearing, determines that any of the~~  
 1094 ~~officers or directors of said firm or corporation, or partners~~  
 1095 ~~of said partnership, have violated the provisions of s. 492.113.~~

1096 Section 43. Section 492.104, Florida Statutes, is amended  
 1097 to read:

1098 492.104 Rulemaking authority.—The Board of Professional  
 1099 Geologists may ~~has authority to~~ adopt rules pursuant to ss.  
 1100 120.536(1) and 120.54 to implement this chapter. Every licensee  
 1101 shall be governed and controlled by this chapter and the rules  
 1102 adopted by the board. The board may establish ~~is authorized to~~  
 1103 ~~set,~~ by rule, fees for application, examination, ~~certificate of~~  
 1104 ~~authorization,~~ late renewal, initial licensure, and license  
 1105 renewal. These fees may ~~should~~ not exceed the cost of  
 1106 implementing the application, examination, initial licensure,  
 1107 and license renewal or other administrative process and are  
 1108 ~~shall be~~ established as follows:

1109 (1) The application fee may ~~shall~~ not exceed \$150 and is  
 1110 ~~shall be~~ nonrefundable.

1111 (2) The examination fee may ~~shall~~ not exceed \$250, and the  
 1112 fee may be apportioned to each part of a multipart examination.  
 1113 The examination fee shall be refundable in whole or part if the  
 1114 applicant is found to be ineligible to take any portion of the  
 1115 licensure examination.

1116 (3) The initial license fee may ~~shall~~ not exceed \$100.

1117 (4) The biennial renewal fee may ~~shall~~ not exceed \$150.

1118 (5) ~~The fee for a certificate of authorization shall not~~

1119 ~~exceed \$350 and the fee for renewal of the certificate shall not~~  
 1120 ~~exceed \$350.~~

1121 ~~(6)~~ The fee for reactivation of an inactive license may  
 1122 ~~shall~~ not exceed \$50.

1123 ~~(6)~~~~(7)~~ The fee for a provisional license may ~~shall~~ not  
 1124 exceed \$400.

1125 ~~(7)~~~~(8)~~ The fee for application, examination, and licensure  
 1126 for a license by endorsement is ~~shall be~~ as provided in this  
 1127 section for licenses in general.

1128 Section 44. Subsection (4) of section 492.113, Florida  
 1129 Statutes, is amended to read:

1130 492.113 Disciplinary proceedings.—

1131 (4) The department shall reissue the license of a  
 1132 disciplined professional geologist ~~or business~~ upon  
 1133 certification by the board that the disciplined person has  
 1134 complied with ~~all of~~ the terms and conditions set forth in the  
 1135 final order.

1136 Section 45. Section 492.115, Florida Statutes, is amended  
 1137 to read:

1138 492.115 Roster of licensed professional geologists.—A  
 1139 roster showing the names and places of business or residence of  
 1140 all licensed professional geologists and all properly qualified  
 1141 firms, corporations, or partnerships practicing holding  
 1142 ~~certificates of authorization to practice~~ professional geology  
 1143 in the state shall be prepared annually by the department. A  
 1144 copy of this roster must be made available to ~~shall be~~

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1145 | ~~obtainable by~~ each licensed professional geologist and each  
1146 | firm, corporation, or partnership qualified by a professional  
1147 | geologist ~~holding a certificate of authorization~~, and copies  
1148 | thereof shall be placed on file with the department.

1149 |       Section 46. This act shall take effect July 1, 2016.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1195 Technology
SPONSOR(S): Government Operations Subcommittee; Grant
TIED BILLS: IDEN./SIM. BILLS: SB 1430

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) Government Operations Subcommittee, 13 Y, 0 N, As CS, Toliver, Williamson. Row 2: 2) Government Operations Appropriations Subcommittee, Keith (circled AK), Topp (with BDT handwritten).

SUMMARY ANALYSIS

The Agency for State Technology (AST) is administratively housed within the Department of Management Services. The executive director of AST, who serves as the state's chief information officer, is appointed by the governor and confirmed by the Senate. Current law establishes positions within AST and establishes the agency's duties and responsibilities.

The bill requires AST to create, administer, and maintain a data catalog. State and local government entities must provide AST with an indexed list that identifies all data points aggregated or stored within any computer system, platform, application, or database used by the entity. The bill specifies the type of information required for inclusion in the list. AST must create a standardized reporting format for the data submitted by state and local government entities and publish that data in the data catalog.

The bill establishes the position of chief data officer (CDO) within AST. The CDO must request and receive data from any state or local government entity, as needed, to establish the interoperability of public data, for the purpose of maintaining and updating the data catalog.

Currently, The Florida Election Code only allows voter interface devices to be used to aid persons with disabilities in the voting process.

The bill appears to expand the use of voter interface devices to all individuals instead of persons with disabilities only. It revises the definition of "marksense ballot" and "marking device" to include voter interface devices.

The bill has a significant, yet indeterminate negative fiscal impact to state government expenditures, specifically within the AST. The bill establishes the CDO position within the AST and requires the AST to create, administer, and maintain a data catalog to display information collected from state and local governments. In addition, there is likely a negative yet indeterminate fiscal impact to expenditures from local governments associated with the data reporting requirements in the bill.

Except as otherwise expressly provided in the act, the bill will take effect on July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Agency for State Technology

##### **Background**

In 2014, the Legislature created the Agency for State Technology (AST) within the Department of Management Services (DMS).<sup>1</sup> The executive director of the AST, who serves as the state's chief information officer, is appointed by the governor and confirmed by the Senate.<sup>2</sup> The following positions are established within the AST, all of whom are appointed by the executive director:

- Deputy executive director, who serves as the deputy chief information officer;<sup>3</sup>
- Chief planning officer and six strategic planning coordinators;<sup>4</sup>
- Chief operations officer;<sup>5</sup>
- Chief information security officer;<sup>6</sup> and
- Chief technology officer.<sup>7</sup>

AST's duties and responsibilities include:

- Developing and publishing information technology (IT) policy for management of the state's IT resources;
- Establishing and publishing IT architecture standards;
- Establishing project management and oversight standards for use by state agencies when implementing IT projects;
- Performing project oversight on all state agency IT projects with a total project cost of \$10 million or more that are funded in the General Appropriations Act or any other law;
- Performing project oversight on any cabinet agency IT project with a total project cost of \$25 million or more and that impacts one or more agencies;
- Providing operational management and oversight of the state data center;
- Recommending additional consolidations of agency data centers or computing facilities into the state data center;
- Identifying opportunities for standardization and consolidation of IT services that support business functions and operations that are common across state agencies;
- Establishing, in collaboration with DMS, best practices for the procurement of IT products in order to reduce costs, increase productivity, or improve services;
- Participating with DMS in evaluating, conducting, and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services;
- Developing standards for IT reports and updates for use by state agencies;
- Assisting state agencies, upon request, in developing IT related legislative budget requests; and

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<sup>1</sup> AST is administratively housed within DMS as a separate budget program and is not subject to its control, supervision, or direction.

<sup>2</sup> Section 20.61(1)(a), F.S.

<sup>3</sup> Section 20.61(2)(a), F.S.

<sup>4</sup> Section 20.61(2)(b), F.S., requires one coordinator for each of the following major program areas: health and human services, education, government operations, criminal and civil justice, agriculture and natural resources, and transportation and economic development.

<sup>5</sup> Section 20.61(2)(c), F.S.

<sup>6</sup> Section 20.61(2)(d), F.S.

<sup>7</sup> Section 20.61(2)(e), F.S.

- Conducting annual assessments of state agencies to determine their compliance with all IT standards and guidelines developed and published by AST.<sup>8</sup>

Currently, the AST does not have statutory authority for the oversight of the interoperability<sup>9</sup> of public data.<sup>10</sup>

### **Effect of the Bill**

The bill creates s. 282.319, F.S., requiring the AST to create, administer, and maintain a data catalog. In addition, it requires a state or local government entity to annually provide the AST with an indexed list that identifies all types of data points aggregated or stored within any computer system, platform, application, or database used by that entity. The list does not need to include the publication of all data points or data sets; however, it must include the identification of all data fields or columns within any computer system, platform, application, or database used by the entity. The AST must create a standardized reporting format for the submitted data and publish it in an indexed catalog. The list must identify:

- If the data is maintained as structured or discrete data;
- Any standards or terminology used to structure the data;
- The name of the system, platform, or application that collects, stores, publishes, or analyzes the data;
- Any integration or interface between any system, platform, or application used by the entity and any other system, platform, or application;
- Any existing or planned application programming interface used to publish data, the data contained in any such existing interface, and the data expected to be contained in any such planned interface;
- Any current methodologies or formats for transmitting data to a state or local government entity; and
- Any data that, if contained within a published application program interface would increase the efficiency and operation of state government, or increase the public's ability to obtain data in an efficient, accurate, and less costly manner.

The bill establishes the position of chief data officer (CDO) within the AST, who is appointed by the executive director. The CDO must request and receive data from any state or local government entity, as needed to establish the interoperability of public data, for the purpose of maintaining and updating the data catalog.

### **Voting Systems**

#### **Background**

The Florida Election Code<sup>11</sup> requires certain specifications for voting systems<sup>12</sup> and ballots.<sup>13</sup> The term "ballot" is divided into two sub-categories:

<sup>8</sup> Section 282.0051, F.S.

<sup>9</sup> The term "interoperability" is defined to mean the ability of a system to work with or use the parts or equipment of another system. Merriam-Webster, available at <http://merriam-webster.com/dictionary/interoperability> (last visited February 2, 2016).

<sup>10</sup> 2016 Agency Legislative Bill Analysis of HB 1195 by AST, January 20, 2016, at 2 (on file with the Government Operations Subcommittee).

<sup>11</sup> Chapters 97-106, F.S., are known as The Florida Election Code.

<sup>12</sup> The term "voting system" is defined to mean a method of casting and processing votes that functions wholly or partly by use of electromechanical or electronic apparatus or by use of marksense ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, supplies, printouts, and other software necessary for the system's operation. Section 97.021(44), F.S.

<sup>13</sup> Section 101.015(1), F.S., sets the standards for voting systems. The Department of State is required to adopt rules establishing the minimum standards for hardware and software for electronic and electromechanical voting systems. Section 101.015(1), F.S.; *see also*

- “Marksense ballots” means that printed sheet of papers, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote,<sup>14</sup> and
- “Electronic or electromechanical devices” means a ballot that is voted by the process of electronically designating, including by touchscreen, or marking with a marking device<sup>15</sup> for tabulation by automatic tabulating equipment or data processing equipment.<sup>16</sup>

The Electronic Voting Systems Act (act)<sup>17</sup> was established “to authorize the use of electronic and electromechanical voting systems in which votes are registered electronically or are tabulated on automatic tabulating equipment or data processing equipment.”<sup>18</sup> The act requires all voting to be by marksense ballot utilizing a marking device for the purpose of designating ballot selections.<sup>19</sup> However, persons with disabilities may vote on a voter interface device that meets the voting system accessibility requirements for individuals with disabilities pursuant to the federal Help America Vote Act of 2002 and s. 101.56062, F.S.<sup>20</sup> The term “voter interface device” means any device that communicates voting instructions and ballot information to a voter and allows the voter to select and vote for candidates and issues.<sup>21</sup>

The Department of State must publicly examine all makes of electronic or electromechanical voting systems submitted to it and determine whether the systems comply with s. 101.5606, F.S., which establishes requirements for approval of systems.<sup>22</sup> Any person owning or interested in an electronic or electromechanical voting system may submit it to the department for examination.<sup>23</sup> Each certified voting system must include the capability to install accessible voter interface devices in the system configuration that will allow the system to meet certain minimum standards to aid persons with disabilities in the voting process.<sup>24</sup>

By 2020, all persons with disabilities must vote on a voter interface device that meets the voter accessibility requirements for individuals with disabilities under the Help America Vote Act of 2002 and s. 101.56062, F.S.<sup>25</sup>

### **Effect of the Bill**

The bill appears to expand the use of voter interface devices to all individuals instead of persons with disabilities only.

The bill revises the definition of “marksense ballot” to include sheets of paper used indirectly to designate the elector’s ballot selections through the use of a voter interface device.

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Fla. Admin. Rule 1S-5.001. Sections 101.151 and 101.161, F.S., set the specifications for ballots. The Department of State is required to adopt rules prescribing a uniform primary and general election ballot for each certified voting system in accordance with The Florida Election Code. Section 101.151(9), F.S.; *see also* Fla. Admin. Rule 1S-2.032.

<sup>14</sup> Section 97.021(4)(a), F.S.

<sup>15</sup> The term “marking device” is defined to mean any approved device for marking a ballot with ink or other substance that will enable the ballot to be tabulated by means of automatic tabulating equipment. Section 101.5603(5), F.S.

<sup>16</sup> Section 97.021(4)(b), F.S.

<sup>17</sup> Sections 101.5601-101.5614, F.S., are cited as the “Electronic Voting Systems Act.”

<sup>18</sup> Section 101.5602, F.S.

<sup>19</sup> Section 101.56075(1), F.S.

<sup>20</sup> Section 101.56075(2), F.S.

<sup>21</sup> Section 97.021(40), F.S.

<sup>22</sup> Section 101.5605(1), F.S.

<sup>23</sup> Section 101.5605(2)(a), F.S.

<sup>24</sup> *See* s. 101.56062, F.S.

<sup>25</sup> Section 101.56075(3), F.S.

With respect to any voting system that uses a voter interface device, the bill provides that ss. 101.151, 101.161, 101.2512, 101.2515 101.252, 101.254, F.S., which relate to ballot layout, only apply to the display of candidates and issues on such device.

The bill amends the Electronic Voting Systems Act to include voter interface devices within the definition of "marking device."

The provisions of the bill amending The Florida Election Code are effective January 1, 2017.

**B. SECTION DIRECTORY:**

**Section 1:** amends s. 20.61, F.S., relating to AST.

**Section 2:** amends s. 97.021, F.S., relating to definitions, effective January 1, 2017.

**Section 3:** amends s. 101.151, F.S., relating to specifications for ballots, effective January 1, 2017.

**Section 4:** amends s. 101.5603, F.S., relating to definitions relating to the Electronic Voting Systems Act, effective January 1, 2017.

**Section 5:** amends s. 101.56075, F.S., relating to voting methods, effective January 1, 2017.

**Section 6:** amends s. 282.0051, F.S., relating to AST; powers, duties, and functions.

**Section 7:** creates s. 282.319, F.S., relating to a data catalog.

**Section 8:** provides an effective date of July 1, 2016, except as otherwise expressly provided in the act.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill has a significant, yet indeterminate negative fiscal impact to state government expenditures, specifically within the AST. The bill establishes the CDO position within the AST and requires the AST to create, administer, and maintain a data catalog to display information collected from state and local governments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

There is likely a negative, yet indeterminate fiscal impact on local governments associated with the data reporting requirements in the bill.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Companies offering voter interface devices may see an increase in requests for such devices due to the authorized expansion of its use.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to gather, standardize, and submit certain data to AST for inclusion in the data catalog; however, an exemption may apply if the cost to local governments is insignificant. An exception does not apply because the bill does not articulate a finding of an important state interest.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The Agency for State Technology only has statutory oversight of state agencies in the executive branch of government and therefore might be unable to enforce the provisions of the bill requiring local government entities to submit data.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 26, 2016, the Government Operations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment relocated provisions establishing a data catalog and the assigning duties to the chief data officer to chapter 282, F.S., which relates to enterprise information technology services. It also clarified that AST administers the data catalog. Finally, the amendment provided that the provisions of the bill amending The Florida Election Code are effective January 1, 2017.

This analysis is drafted to the committee substitute as approved by the Government Operations Subcommittee.

C

1 A bill to be entitled  
 2 An act relating to technology; amending s. 20.61,  
 3 F.S.; establishing the chief data officer within the  
 4 Agency for State Technology; amending s. 97.021, F.S.;  
 5 revising the definition of the term "marksense  
 6 ballots" for purposes of the Florida Election Code;  
 7 amending s. 101.151, F.S.; providing applicability of  
 8 specified requirements to the display on a voter  
 9 interface device; amending ss. 101.5603 and 101.56075,  
 10 F.S.; conforming provisions to changes made by the  
 11 act; amending s. 282.0051, F.S.; requiring the agency  
 12 to create a reporting format for certain data and  
 13 publish such data in an indexed catalog; creating s.  
 14 282.319, F.S.; requiring each state and local  
 15 government entity to annually provide an indexed list  
 16 of certain data to the agency; providing requirements  
 17 for such list; providing effective dates.

18

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

20

21 Section 1. Paragraph (f) is added to subsection (2) of  
 22 section 20.61, Florida Statutes, to read:

23 20.61 Agency for State Technology.—The Agency for State  
 24 Technology is created within the Department of Management  
 25 Services. The agency is a separate budget program and is not  
 26 subject to control, supervision, or direction by the Department

27 of Management Services, including, but not limited to,  
 28 purchasing, transactions involving real or personal property,  
 29 personnel, or budgetary matters.

30 (2) The following positions are established within the  
 31 agency, all of whom shall be appointed by the executive  
 32 director:

33 (f) Chief data officer.

34 Section 2. Effective January 1, 2017, paragraph (a) of  
 35 subsection (4) of section 97.021, Florida Statutes, is amended  
 36 to read:

37 97.021 Definitions.—For the purposes of this code, except  
 38 where the context clearly indicates otherwise, the term:

39 (4) "Ballot" or "official ballot" when used in reference  
 40 to:

41 (a) "Marksense ballot ballots" means that printed sheet of  
 42 paper, used in conjunction with an electronic or  
 43 electromechanical vote tabulation voting system, containing the  
 44 names of candidates, or a statement of proposed constitutional  
 45 amendments or other questions or propositions submitted to the  
 46 electorate at any election, or the selections made by the  
 47 elector of candidates or other questions or propositions at an  
 48 election, on which sheet of paper an elector casts his or her  
 49 vote either directly on the sheet of paper or indirectly through  
 50 the use of a voter interface device used to designate the  
 51 elector's ballot selections on the sheet of paper.

52 Section 3. Effective January 1, 2017, subsection (10) is

53 added to section 101.151, Florida Statutes, to read:

54 101.151 Specifications for ballots.—

55 (10) With respect to any voting system that uses a voter  
 56 interface device to designate the elector's ballot selections on  
 57 a sheet of paper, the provisions of this section, s. 101.161,  
 58 and ss. 101.2512-101.254 that prescribe the ballot layout apply  
 59 only to the display of candidates and issues on the voter  
 60 interface device.

61 Section 4. Effective January 1, 2017, subsection (5) of  
 62 section 101.5603, Florida Statutes, is amended to read:

63 101.5603 Definitions relating to Electronic Voting Systems  
 64 Act.—As used in this act, the term:

65 (5) "Marking device" means any approved device for marking  
 66 a ballot with ink or other substance, including through a voter  
 67 interface device, which will enable the ballot to be tabulated  
 68 by means of automatic tabulating equipment.

69 Section 5. Effective January 1, 2017, subsection (1) of  
 70 section 101.56075, Florida Statutes, is amended to read:

71 101.56075 Voting methods.—

72 (1) Except as provided in subsection (2), all voting shall  
 73 be by marksense ballot using ~~utilizing~~ a marking device for the  
 74 purpose of designating ballot selections.

75 Section 6. Subsection (8) of section 282.0051, Florida  
 76 Statutes, is amended to read:

77 282.0051 Agency for State Technology; powers, duties, and  
 78 functions.—The Agency for State Technology shall have the

79 following powers, duties, and functions:

80 (8) (a) Develop standards for information technology  
 81 reports and updates, including, but not limited to, operational  
 82 work plans, project spend plans, and project status reports, for  
 83 use by state agencies.

84 (b) Create a standardized reporting format for data  
 85 submitted by state and local government entities and publish  
 86 such data in the data catalog pursuant to s. 282.319.

87 Section 7. Section 282.319, Florida Statutes, is created  
 88 to read:

89 282.319 Data catalog.—

90 (1) The Agency for State Technology shall create,  
 91 administer, and maintain a data catalog.

92 (2) A state or local government entity must annually  
 93 provide the agency with an indexed list that identifies all  
 94 types of data points aggregated or stored within any computer  
 95 system, platform, application, or database used by the entity.  
 96 The list need not include all data points or data sets but must  
 97 identify all data fields or columns within any computer system,  
 98 platform, application, or database used by the entity. The list  
 99 must identify:

100 (a) Whether the data is maintained as structured or  
 101 discrete data.

102 (b) Any standards or terminology used to structure the  
 103 data.

104 (c) The name of the system, platform, or application that

105 collects, stores, publishes, or analyzes the data.

106 (d) Any integration or interface between any system,  
 107 platform, or application used by the entity and any other  
 108 system, platform, or application.

109 (e) Any existing or planned application programming  
 110 interface used to publish data, the data contained in any such  
 111 existing interface, and the data expected to be contained in any  
 112 such planned interface.

113 (f) Any current methodologies or formats for transmitting  
 114 data to a state or local government entity.

115 (g) Any data that, if contained within a published  
 116 application programming interface, would:

117 1. Increase the efficiency and operation of state  
 118 government; or

119 2. Increase the public's ability to obtain data in an  
 120 efficient, accurate, and less costly manner.

121 (3) The agency's chief data officer shall request and  
 122 receive data, as needed to establish the interoperability of  
 123 public data, from any state or local government entity for the  
 124 purpose of maintaining and updating the data catalog.

125 Section 8. Except as otherwise expressly provided in this  
 126 act, this act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Government Operations  
 2 Appropriations Subcommittee  
 3 Representative Grant offered the following:

**Amendment**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Subsection (2) of section 20.61, Florida  
 8 Statutes, is amended to read:

9 20.61 Agency for State Technology.—The Agency for State  
 10 Technology is created within the Department of Management  
 11 Services. The agency is a separate budget program and is not  
 12 subject to control, supervision, or direction by the Department  
 13 of Management Services, including, but not limited to,  
 14 purchasing, transactions involving real or personal property,  
 15 personnel, or budgetary matters.

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16 (2) The following positions are established within the  
17 agency, all of whom shall be appointed by the executive  
18 director:

19 (a) Deputy executive director, who shall serve as the  
20 deputy chief information officer.

21 (b) Chief planning officer and six strategic planning  
22 coordinators. One coordinator shall be assigned to each of the  
23 following major program areas: health and human services,  
24 education, government operations, criminal and civil justice,  
25 agriculture and natural resources, and transportation and  
26 economic development.

27 (c) Chief operations officer.

28 (d) Chief information security officer.

29 (e) Chief technology officer.

30 (f) Chief data officer.

31 Section 2. Section 282.319, Florida Statutes, is created  
32 to read:

33 282.319 Data Catalog.—

34 (1) In consultation with state agencies, the chief data  
35 officer shall develop an enterprise data inventory that  
36 describes the data created or collected by a state agency, to  
37 include data used in an agency's information systems, and  
38 recommend options and associated costs for developing and  
39 maintaining an open data catalog that is machine-readable,  
40 easily accessible, and usable by the public.

41 (2) As used in this section, the term:

## Amendment No. 1

42        (a) "Application programming interface" means a set of  
43 programming instructions and standards for accessing a web-based  
44 software application.

45        (b) "Data" means a subset of structured information in a  
46 format that allows it to be electronically retrieved and  
47 transmitted.

48        (c) "Data catalog" means a collection of descriptions of  
49 datasets.

50        (d) "Dataset" means an organized collection of related  
51 data held in an electronic format.

52        (e) "Machine-readable" means data that is in a form that  
53 can be easily processed by a computer without human  
54 intervention.

55        (f) "Open data" means data collected or created by a state  
56 agency and structured in a way that enables the data to be fully  
57 discoverable and usable by the public. Open data does not  
58 include data that is restricted from public distribution based  
59 on federal or state privacy, confidentiality, and security laws  
60 and regulations and data that a state agency is statutorily-  
61 authorized to assess a fee for its distribution.

62        (g) "State agency" has the same meaning as provided in s.  
63 282.318.

64        (3) At a minimum, the chief data officer shall:

65        (a) Establish a process and reporting format for state  
66 agencies to provide to the chief data officer an inventory that

Amendment No. 1

67 describes all current datasets aggregated or stored by the  
68 agency. The inventory shall include, but is not limited to:

69 1. The title and description of what information will be  
70 found in the dataset.

71 2. A description of how the data is maintained to include  
72 standards or terminologies used to structure the data.

73 3. Any existing or planned application programming  
74 interface used to publish data, a description of the data  
75 contained in any such existing interface, and a description of  
76 the data expected to be contained in any currently planned  
77 interface.

78 (b) Recommend any potential methods for standardizing data  
79 across state agencies that will promote interoperability and  
80 reduce the collection of duplicative data.

81 (c) Identify what state agency data may be considered open  
82 data.

83 (d) Recommend open data technical standards and  
84 terminologies for use by state agencies.

85 (e) Recommend options and all associated costs for the  
86 state to develop and maintain an open data catalog.

87 (4) For purposes of completing the requirements identified  
88 in subsection (3), the chief data officer shall take into  
89 consideration the data and information contained in the  
90 feasibility study completed pursuant to Section 30, chapter  
91 2014-221, Laws of Florida.

Amendment No. 1

92           Section 3. The Agency for State Technology, in  
93 collaboration with the Department of Highway Safety and Motor  
94 Vehicles, shall develop a plan that includes associated costs  
95 for implementing a secure and uniform system for issuing an  
96 optional digital proof of driver license pursuant to s. 322.032.  
97 The plan must be submitted to the Executive Office of the  
98 Governor, the President of the Senate, and the Speaker of the  
99 House of Representatives no later than December 1, 2016.

100           Section 4. For the 2016-2017 fiscal year, 1.00 full-time  
101 equivalent position and associated salary rate of 103,000 are  
102 authorized for the Agency for State Technology to implement this  
103 act. On or after the effective date of this act, the Agency for  
104 State Technology may submit a budget amendment pursuant to  
105 chapter 216, Florida Statutes, to transfer budget authority, if  
106 needed, into the Salaries and Benefits category within the  
107 Executive Direction and Support Services Budget Entity from  
108 other general revenue appropriations to provide budget authority  
109 for the chief data officer.

110           Section 5. This act shall take effect July 1, 2016.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1327 Limited Sinkhole Coverage Insurance  
**SPONSOR(S):** Insurance & Banking Subcommittee; Ingoglia  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Lloyd	Luczynski
2) Government Operations Appropriations Subcommittee		Keith 	Topp 
3) Regulatory Affairs Committee			

**SUMMARY ANALYSIS**

A sinkhole is defined in law as a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. Catastrophic ground cover collapse is also defined in the law and is more severe than sinkhole loss. Florida law requires property insurers to cover only catastrophic ground cover collapse, rather than all sinkhole loss, in the base property insurance policy. But, insurers must also offer policyholders sinkhole loss coverage, for an appropriate additional premium.

Currently to recover under a sinkhole insurance policy a homeowner must have experienced sinkhole loss. Sinkhole loss means structural damage to the covered building, including the foundation, caused by sinkhole activity. Contents coverage and additional living expenses apply only if there is structural damage to the covered building caused by sinkhole activity.

In 2011, the Legislature reviewed the sinkhole law and enacted comprehensive reforms addressing all areas of the law, including defining structural damage. The reforms were in response to the increasing number and cost of sinkhole claims. The goal of the reforms was to keep sinkhole loss insurance available to homeowners while providing more certainty in sinkhole claims for homeowners and insurers in terms of coverage, costs, repairs, and exposure.

The bill creates a new type of sinkhole coverage. Among its key features, the bill:

- Permits an authorized insurer to issue a "limited sinkhole coverage insurance" policy providing personal lines residential coverage for the peril of sinkhole loss on any structure or the contents of personal property;
- Covers only losses from the perils of sinkhole loss as the term "sinkhole loss" is currently defined in law;
- Coverage of loss of personal property or contents is not required; coverage may be limited to stabilization of the building and repair of the foundation; coverage of land stabilization is not required;
- Allows policy limits, subject to a minimum limit, and deductibles as agreed by the insurer and insured;
- Requires the insured's signed acknowledgement of reading and understanding the policy limitations, including a notice, with prescribed text;
- Does not apply to commercial lines residential coverage, commercial lines nonresidential coverage, or excess coverage for the peril of sinkholes;
- Does not require form filing;
- Establishes surplus requirements;
- Removes certain limitations on the exportation of policies to the surplus lines until July 1, 2020;
- Until October 1, 2019, these limited sinkhole coverage insurers will not be subject to file and use rate review by the Office of Insurance Regulation; and
- Prohibits assignment of a post-loss claim, except to a subsequent property purchaser.

The bill has no fiscal impact on state or local government. The bill has an indeterminate fiscal impact on the private sector.

The bill is effective on July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

A sinkhole is defined in Florida law as a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater.<sup>1</sup> Sinkholes occur in certain parts of Florida due to the unique geological structure of the land. Sinkholes are geographic features formed by movement of rock or sediment into voids created by the dissolution of water-soluble rock. This type of subsidence formation may be aggravated and accelerated by urbanization, suburbanization, water usage, and changes in weather patterns.

Since 1981, insurers offering property coverage in Florida have been required by law to provide coverage for property damage from sinkholes.<sup>2</sup> In 2007, Florida law was amended to require insurers in Florida to cover only catastrophic ground cover collapse, rather than all sinkhole loss, in the base property insurance policy.<sup>3</sup> Catastrophic ground cover collapse is more severe than sinkhole loss. Catastrophic ground cover collapse means geological activity that result in all the following:

1. The abrupt collapse of the ground cover;
2. A depression in the ground cover clearly visible to the naked eye;
3. Structural damage to the covered building, including the foundation; and
4. The insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.<sup>4</sup>

Insurers must also offer policyholders, for an appropriate additional premium, sinkhole loss coverage covering any structure, including personal property contents.<sup>5</sup> Such coverage is subject to the insurer's approved underwriting and insurability guidelines. At a minimum, sinkhole loss coverage includes repairing the covered building, repairing the foundation, and stabilizing the underlying land. All property insurers can restrict catastrophic ground cover collapse and sinkhole loss coverage to the property's principal building. However, by law, Citizens Property Insurance Corporation (Citizens)<sup>6</sup> sinkhole loss coverage does not cover sinkhole losses to appurtenant structures, driveways, sidewalks, decks, or patios. Furthermore, insurers can require an inspection of the property before providing sinkhole loss coverage.

For sinkhole loss coverage in residential property insurance, current law allows insurers to include a deductible that applies only to sinkhole loss in the following amounts: 1 percent, 2 percent, 5 percent, or 10 percent of policy dwelling limits. The insurer has the option to choose which sinkhole loss deductible is offered to policyholders and currently, most insurers, including Citizens, offer policyholders only a 10 percent sinkhole loss deductible.

Substantial changes to Florida's sinkhole law occurred in 2005, 2006, and 2011.<sup>7</sup> In 2011, the Legislature reviewed the sinkhole law and enacted comprehensive reforms addressing all areas of the law. Data collected by the Office of Insurance Regulation (OIR) in 2010, before the reforms were

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<sup>1</sup> s. 627.706(2)(b), F.S.

<sup>2</sup> Ch. 1981-280, Laws of Fla.

<sup>3</sup> s. 30, Ch. 2007-1, Laws of Fla.

<sup>4</sup> s. 627.706(2)(a), F.S.

<sup>5</sup> s. 627.706, F.S.

<sup>6</sup> Citizens Property Insurance Corporation is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. It is not a private insurance company.

<sup>7</sup> Chs. 2005-111, 2006-12, and 2011-39, Laws of Fla.

enacted, showed a significant increase in the number and cost of sinkhole claims from 2006 to 2010.<sup>8</sup> These increases impacted the financial stability of property insurers in Florida, including Citizens, and were used by insurers to justify property insurance rate increases.

The sinkhole reforms enacted in 2011 were in response to the increasing number and cost of sinkhole claims. The goal of the reforms was to keep sinkhole loss insurance available to homeowners while providing more certainty in sinkhole claims for homeowners and insurers in terms of coverage, costs, repairs, and exposure.

The first complete year the reforms were in effect was 2012.<sup>9</sup> No data has been collected on an industry-wide basis on the number of claims, claim severity, or claim costs since the reforms were enacted, so their impact on sinkhole claims and costs on an industry-wide basis is unknown. However, Citizens performed a sinkhole study in 2012 to compute the impact of the 2011 reforms on their policies.<sup>10</sup> This study looked at actual sinkhole claim files from Citizens and readjusted the losses and expenses associated with the claims as if the 2011 reforms had been in effect. The actuarial analysis which accompanied the study projected the 2011 reforms would reduce Citizens' expected incurred sinkhole losses for 2013 by almost 55 percent. In Citizens' rate filing for 2014,<sup>11</sup> their actuary projected Citizens' sinkhole losses would decrease by over 52 percent relative to what they would have been without the 2011 reforms. The actuary further noted, however, that even with the projected reduction in sinkhole losses, Citizens still has a significant rate deficiency in the sinkhole area. In fact, in 2012, Citizens earned almost \$57 million in sinkhole premium but paid almost \$227 million in sinkhole losses and expenses.

According to data from Citizens,<sup>12</sup> in 2013, new sinkhole claim volume was down 61 percent from 2012. Also, Citizens had 54 percent fewer pending sinkhole claims in 2013 than 2012. Paid indemnity, outstanding indemnity reserves, and loss adjustment expenses paid to date for sinkhole claims filed against Citizens have also decreased in 2013 when compared to 2012. This declining trend continued into 2014 and 2015 and, according to Citizens, is attributable largely to the major sinkhole claims reform enacted in 2011.<sup>13</sup>

## Sinkhole Insurance

Current law regarding sinkhole insurance includes the following requirements:

- Every property insurer must provide coverage for catastrophic ground cover collapse;
- Each property insurer must offer coverage for sinkhole loss, for an appropriate additional premium, on any structure including the contents of personal property; and
- A policy for residential property insurance may include a deductible amount applicable to sinkhole losses equal to 1 percent, 2 percent, 5 percent, or 10 percent of the policy dwelling limits, with appropriate premium discounts offered with each deductible amount.

<sup>8</sup> *Report on Review of the 2010 Sinkhole Data Call by the Office of Insurance Regulation*, Nov. 8, 2010, [http://www.flor.com/siteDocuments/Sinkholes/2010\\_Sinkhole\\_Data\\_Call\\_Report.pdf](http://www.flor.com/siteDocuments/Sinkholes/2010_Sinkhole_Data_Call_Report.pdf) (last visited Feb. 7, 2016).

<sup>9</sup> The reforms were effective on May 17, 2011 when the bill (CS/CS/CS/SB 408) was signed by the Governor.

<sup>10</sup> *Citizens Property Insurance Corporation Senate Bill 408 Sinkhole Analysis*, prepared by Insurance Services Office, dated Jul. 19, 2012, and presented at Citizens' Board of Governors Meeting on Jul. 27, 2012, [https://www.citizensfla.com/about/mDetails\\_boardmtgs.cfm?show=PDF&link=/bnc\\_meet/docs/419/07AH\\_Citizens\\_SB408\\_Sinkhole\\_Analysis.pdf&event=419&when=Past](https://www.citizensfla.com/about/mDetails_boardmtgs.cfm?show=PDF&link=/bnc_meet/docs/419/07AH_Citizens_SB408_Sinkhole_Analysis.pdf&event=419&when=Past) (last visited Feb. 7, 2016).

<sup>11</sup> Information on Citizens' 2014 rate filing is available at <https://www.citizensfla.com/about/mediareources.cfm> (last visited Feb. 7, 2016).

<sup>12</sup> Data is as of the end of September 2013 and is available in meeting materials from the Citizens' Claims Committee meeting on Nov. 14, 2013, available at [https://www.citizensfla.com/about/mDetails\\_boardmtgs.cfm?event=531&when=Past](https://www.citizensfla.com/about/mDetails_boardmtgs.cfm?event=531&when=Past) (last visited Feb. 7, 2016).

<sup>13</sup> *Citizens Property Insurance Corporation Actuarial & Underwriting Committee Recommended Rate Filing Executive Summary*, Jun. 23, 2015 at [https://www.citizensfla.com/about/mDetails\\_boardmtgs.cfm?show=PDF&link=/bnc\\_meet/docs/604/02\\_2016\\_Annual\\_Recommended\\_Rate\\_Filing\\_Exec\\_Summary.pdf&event=604&when=Past](https://www.citizensfla.com/about/mDetails_boardmtgs.cfm?show=PDF&link=/bnc_meet/docs/604/02_2016_Annual_Recommended_Rate_Filing_Exec_Summary.pdf&event=604&when=Past) (last visited Feb. 7, 2016).

There are four terms in statute<sup>14</sup> that, when read together, describe what is currently meant by sinkhole insurance. These terms are:

1. "Sinkhole" means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole forms by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.
2. "Sinkhole activity" means settlement or systematic weakening of the earth supporting the covered building only if the settlement or systematic weakening results from contemporaneous movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.
3. "Sinkhole loss" means structural damage to the covered building, including the foundation, caused by sinkhole activity. Contents coverage and additional living expenses apply only if there is structural damage to the covered building caused by sinkhole activity.
4. "Structural damage" means a covered building, regardless of the date of its construction, has experienced the following:
  - (a) Interior floor displacement or deflection in excess of acceptable variances as defined in American Concrete Institute (ACI) 117-90<sup>15</sup> or the Florida Building Code, which results in settlement-related damage to the interior such that the interior building structure or members become unfit for service or represents a safety hazard as defined within the Florida Building Code;
  - (b) Foundation displacement or deflection in excess of acceptable variances as defined in ACI 318-95 or the Florida Building Code, which results in settlement-related damage to the primary structural members or primary structural systems that prevents those members or systems from supporting the loads and forces they were designed to support to the extent that stresses in those primary structural members or primary structural systems exceeds one and one-third the nominal strength allowed under the Florida Building Code for new buildings of similar structure, purpose, or location;
  - (c) Damage that results in listing, leaning, or buckling of the exterior load-bearing walls or other vertical primary structural members to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base as defined within the Florida Building Code;
  - (d) Damage that results in the building, or any portion of the building containing primary structural members or primary structural systems, being significantly likely to imminently collapse because of the movement or instability of the ground within the influence zone of the supporting ground within the sheer plane necessary for the purpose of supporting such building as defined within the Florida Building Code; or
  - (e) Damage occurring on or after October 15, 2005, that qualifies as "substantial structural damage" as defined in the Florida Building Code.

Under current law, sinkhole insurance means coverage for sinkhole loss which includes "structural damage" caused by "sinkhole activity." The definition of sinkhole does not include either term. To file a sinkhole claim and recover payment, there must be structural damage to the covered building, including the foundation, caused by sinkhole activity. If a homeowner only has a "sinkhole" as that term is currently defined, the policyholder will not be covered (unless the sinkhole falls within the definition of catastrophic ground cover collapse).

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<sup>14</sup> s. 627.706(2) (h)(i)(j) and (k), F.S.

<sup>15</sup> The American Concrete Institute develops and distributes consensus based standards for concrete design, construction and materials. More information and copies of their standards documents are available at <https://www.concrete.org/aboutaci.aspx> (last visited Feb. 8, 2016).

## Effect of the Bill

The bill creates a new type of personal lines residential coverage for the peril of sinkhole loss. Among its key features regarding coverage, the bill:

- Authorizes a new line of coverage called “limited sinkhole coverage insurance” that may be offered, but is subject to underwriting;
- Uses applicable definitions from current law to cover “sinkhole loss”;
- Permits policies to include coverage of contents or additional living expenses, which are not required, and limit coverage to stabilization of the building and repair of the foundation; coverage of land stabilization is not required;
- Allows deductibles as agreed by the insurer and insured;
- Allows policy limits as agreed by the insurer and insured, subject to a minimum limit;
- Requires the insured’s signed acknowledgement of reading and understanding the policy limitations;
- Requires notice, with prescribed text in uppercase bold 12 point type, that declares that the:
  - Policy is a sub-limit policy, if applicable; and
  - Deductible exceeds the percentage authorized for other sinkhole policies, if applicable;
- Does not requiring form filing; and
- Prohibits an insured from assigning a post-loss claim, except to a property purchaser who acquires a post-loss insurable interest.

## **Surplus Requirements**

### *New Insurers*

To transact insurance in Florida, insurers must apply for a certificate of authority and meet certain surplus requirements. For a new domestic insurer that transacts residential property insurance and is:

- Not a wholly owned subsidiary of an insurer domiciled in any other state, the surplus requirement is at least \$15 million; and
- A wholly owned subsidiary of an insurer domiciled in any other state, the requirement is at least \$50 million.

## Effect of the Bill

For a new domestic insurer that *only* transacts limited sinkhole coverage insurance for personal lines residential property pursuant to s. 627.7151, F.S., (a new section created in the bill) the bill lowers the surplus requirement. For those entities, the insurer must possess a surplus of at least \$7.5 million.

### *Existing Insurers*

Under current law, the surplus requirements for existing insurers are different than the requirements for new insurers. For property and casualty insurers, the requirement is \$4 million, except for property and casualty insurers authorized to underwrite any line of residential property insurance. For residential property insurers not holding a certificate of authority before July 1, 2011, the requirement is \$15 million. For residential property insurers holding a certificate of authority before July 1, 2011, and until June 30, 2016, \$5 million; on or after July 1, 2016, and until June 30, 2021, \$10 million; on or after July 1, 2021, \$15 million.

## Effect of the Bill

For an existing domestic insurer that *only* transacts limited sinkhole coverage insurance for personal lines residential property pursuant to s. 627.7151, F.S., the bill sets a surplus requirement of \$7.5 million.

## **Limited Sinkhole Coverage Insurance Rates**

Rates for property, casualty, and surety insurance cannot be excessive, inadequate, or unfairly discriminatory.<sup>16</sup> When an insurer submits a rate to the OIR for a full rate review, the OIR uses statutory factors and rate standards found in s. 627.062(2), F.S., to determine if a rate is excessive, inadequate, or unfairly discriminatory. If a limited sinkhole coverage insurer opts to file its limited sinkhole coverage insurance rates with the OIR for approval before using the rates, the rates cannot be excessive, inadequate, or unfairly discriminatory. To make this determination, the OIR will use the same statutory factors and rate standards that it uses for rates for property, casualty, and surety insurance.

## Effect of the Bill

The bill allows insurers providing limited sinkhole coverage insurance to develop rates for the coverage two ways:

- Use the rate after filing with and approval by the OIR; and
- Use the rate without filing with or approval by the OIR.

Insurers can only use the second way to develop limited sinkhole coverage insurance rates until October 1, 2019. After this date, all insurers must use the first option which requires a full rate review and approval by the OIR before a limited sinkhole coverage insurance rate can be used.

While the bill allows insurers to use a rate for limited sinkhole coverage insurance without filing it or obtaining approval of it from the OIR, a rate set this way still cannot be excessive, inadequate, or unfairly discriminatory, which is the same rate review standard for rates filed with and approved by the OIR. The insurer writing the limited sinkhole coverage insurance is responsible for ensuring the rate charged meets this requirement.

The bill allows the OIR to examine an insurer's documentation supporting a rate to verify the rate meets the requirement with the insurer paying for the examination. During an examination, the OIR uses the rate factors and standards in current law that apply to property, casualty and surety insurance rates filed with the OIR to determine whether the limited sinkhole coverage insurance rate charged is excessive, inadequate, or unfairly discriminatory. Additionally, the insurer must notify the OIR within 30 days of a rate change for limited sinkhole coverage insurance that was originally set by this method. Setting limited sinkhole coverage insurance rates using this method is similar to what is allowed in current law for rates for flood insurance and certain types of commercial lines risks under s. 627.062(3)(d), F.S.

## **Limited Sinkhole Coverage Insurance in the Surplus Lines Market**

Currently, no insurance coverage is eligible for export to a surplus lines insurer unless it meets certain conditions. The following conditions must be met for export: that an agent has sought coverage from and received three documented rejections from authorized insurers currently writing the same type of coverage; the premium rate is not lower than that in use by the majority of authorized insurers offering the same coverage on similar risks; the policy is not more favorable to the insured than those issued by the majority of authorized insurers writing the same coverage on similar risks; deductibles other than

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<sup>16</sup> s. 627.062(1), F.S.

those allowed similar policies; and advisement to the insured that the policy may be available for less from Citizens.

### Effect of the Bill

Until July 1, 2020, the bill allows this new sinkhole coverage for personal lines residential property to be written by a surplus lines insurer without satisfying the conditions described above.

### **Other Regulatory Requirements**

In addition to other requirements in the bill, insurers providing limited sinkhole coverage insurance are to notify the OIR at least 30 days before writing sinkhole insurance in this state. They also must file a plan of operation and financial projections or revisions to such plan, as applicable, with the OIR.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 624.407, F.S., relating to surplus required; new insurers.

**Section 2.** Amends s. 624.408, F.S., relating to surplus required; current insurers.

**Section 3.** Creates s. 627.7151, F.S., relating to limited sinkhole coverage insurance.

**Section 4.** Provides an effective date of July 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The economic impact on the private sector is indeterminate.

#### **D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

In its bill analysis<sup>17</sup>, the OIR identified several issues of concern. Their comments are as follows:<sup>18</sup>

The bill has specific provisions for a domestic residential insurer that solely writes sinkhole coverage but it does not specifically mention a non-domestic insurer. The bill should provide clarity with regard to a non-domestic insurer.

This bill proposes the essential deregulation of personal lines sinkhole-only rates until October 1, 2019, which is similar to current statutory language for private flood rates. Applying this provision to new sinkhole-only rates seems to create an inconsistency with companies which already have sinkhole rates on file that have been approved. The result would seem to be that rates for sinkhole-only insurers would be deregulated while the rates for multi-peril personal residential property insurers that include coverage for sinkhole would not. Since insurers already have rates approved for sinkhole coverage, unlike the situation for private flood coverage, it is not clear why suspension of the application of rating statutes for sinkhole-only coverage is necessary or advisable.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2016, the Insurance & Banking Subcommittee considered the bill, adopted a strike-all amendment, and reported the bill favorably with a committee substitute. The amendment made the following revisions to the bill:

- Authorizing a new line of coverage called "Limited Sinkhole Insurance" that may be offered, but is subject to underwriting; rather than "the peril of sinkholes";
- Using applicable definitions from current law to cover "sinkhole loss," instead of "sinkholes";
- Policies are no longer required to include coverage of contents or additional living expenses;
- Coverage may be limited to stabilization of the building and repair of the foundation; coverage of land stabilization is not required;
- Increasing minimum surplus requirements to \$7.5 million for any new or existing insurers writing limited sinkhole insurance (was \$2.5 million for new and \$1.5 million for existing);
- Allowing deductibles as agreed by the insurer and insured;
- Allowing policy limits as agreed by the insurer and insured, subject to a minimum limit;
- Requiring the insured's signed acknowledgement of reading and understanding the policy limitations;
- Requiring notice, with prescribed text in uppercase bold 12 point type, that declares that the:

<sup>17</sup> Florida Office of Insurance Regulation, Agency Analysis of 2016 HB 1327, (Jan. 28, 2016).

<sup>18</sup> The agency bill analysis is drafted to HB 1327, as filed; not to the committee substitute. The comments listed are from the original analysis, but relate to provisions that are retained in CS/HB 1327. A revised bill analysis has not yet been received.

- Policy is a sub-limit policy, if applicable; and
  - Deductible exceeds the percentage authorized for other sinkhole policies, if applicable;
- Not requiring form filing;
- Prohibiting an insured from assigning a post-loss claim, except to a property purchaser who acquires a post-loss insurable interest;
- Maintaining current law regarding the provision of catastrophic ground cover collapse coverage by Citizens Property Insurance Corporation;
- Removing additional restrictions on the exportation of limited sinkhole insurance to the surplus lines; and
- Removing provisions requiring the Florida Commission on Hurricane Loss Projection Methodology to develop and the Office of Insurance regulation to use sinkhole loss projection models.

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

1                                   A bill to be entitled  
 2           An act relating to limited sinkhole coverage  
 3           insurance; amending s. 624.407, F.S.; specifying the  
 4           amount of surplus funds required for domestic insurers  
 5           applying for a certificate of authority to provide  
 6           limited sinkhole coverage insurance; amending s.  
 7           624.408, F.S.; specifying the minimum surplus funds  
 8           that must be maintained by insurers that provide  
 9           limited sinkhole coverage insurance; creating s.  
 10          627.7151, F.S.; authorizing certain insurers to offer  
 11          limited sinkhole coverage insurance in this state;  
 12          providing requirements and applicability; requiring  
 13          signed acknowledgement of certain statements;  
 14          authorizing use of certain insurance forms; exempting  
 15          such forms from approval; providing an insurer with  
 16          rate options; authorizing a surplus lines agent to  
 17          export limited sinkhole coverage insurance to a  
 18          surplus lines insurer without meeting certain  
 19          requirements; requiring the insurer to notify the  
 20          Office of Insurance Regulation before writing limited  
 21          sinkhole coverage insurance and to file a plan of  
 22          operation with the office; prohibiting assignment of  
 23          post-loss claims; providing an exception; providing an  
 24          effective date.

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

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

624.407 Surplus required; new insurers.—

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

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

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

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

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

~~or~~

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

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

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

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2016

53 (f) Notwithstanding paragraphs (a), (d), and (e), for a  
 54 domestic insurer that only transacts limited sinkhole coverage  
 55 insurance for personal lines residential property pursuant to s.  
 56 627.7151, \$7.5 million.

57 Section 2. Paragraph (h) is added to subsection (1) of  
 58 section 624.408, Florida Statutes, to read:

59 624.408 Surplus required; current insurers.—

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

65 (h) Notwithstanding paragraphs (e), (f), and (g), for a  
 66 domestic insurer that only transacts limited sinkhole coverage  
 67 insurance for personal lines residential property pursuant to s.  
 68 627.7151, \$7.5 million.

69  
 70 The office may reduce the surplus requirement in paragraphs (f)  
 71 and (g) if the insurer is not writing new business, has premiums  
 72 in force of less than \$1 million per year in residential  
 73 property insurance, or is a mutual insurance company.

74 Section 3. Section 627.7151, Florida Statutes, is created  
 75 to read:

76 627.7151 Limited sinkhole coverage insurance.—

77 (1) An authorized insurer may issue, but is not required  
 78 to make available, a limited sinkhole coverage insurance policy

79 providing personal lines residential coverage, subject to  
80 underwriting, for the peril of sinkhole loss on any structure or  
81 the contents of personal property contained therein, subject to  
82 this section and ss. 627.706-627.7074. This section does not  
83 apply to commercial lines residential or commercial lines  
84 nonresidential coverage for the peril of sinkhole loss. This  
85 section also does not apply to coverage for the peril of  
86 sinkhole loss that is excess coverage over any other insurance  
87 covering the peril of sinkhole loss.

88 (2) Limited sinkhole coverage insurance must cover only  
89 losses from the peril of sinkhole loss, as defined in s.  
90 627.706(2)(j); however, such coverage is not required to provide  
91 for contents and additional living expenses.

92 (3) Limited sinkhole coverage insurance may:

93 (a) Notwithstanding s. 627.707(5), limit coverage to  
94 repairs to stabilize the building and repair the foundation in  
95 accordance with the recommendations of the professional engineer  
96 retained pursuant to s. 627.707(2). However, if the insurer's  
97 professional engineer determines that the repair cannot be  
98 completed within policy limits, the insurer must pay to complete  
99 the repairs recommended by the insurer's professional engineer  
100 or tender the policy limits to the policyholder.

101 (b) In addition to the deductibles authorized under s.  
102 627.706(1)(b), offer deductibles agreed to by the insured and  
103 insurer.

104 (c) Offer policy limits agreed to by the insured and

105 insurer. However, policy limits below \$50,000 are prohibited  
 106 unless that amount exceeds full replacement cost of the  
 107 property.

108 (4) Before issuing a limited sinkhole coverage insurance  
 109 policy under this section, the insurance agent must obtain a  
 110 signed acknowledgement from an applicant that includes the  
 111 following statement in at least 12-point bold, uppercase type:  
 112 "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE INSURANCE POLICY, I  
 113 HAVE READ AND UNDERSTAND THE LIMITATIONS THAT MAY APPLY TO MY  
 114 POLICY." The signed acknowledgment must also include, in at  
 115 least 12-point bold, uppercase type:

116 (a) For a policy that provides limited sinkhole coverage  
 117 insurance in an amount less than the full replacement cost of  
 118 the property, the following statement: "THIS POLICY LIMITS  
 119 SINKHOLE COVERAGE TO LESS THAN THE FULL COST OF REPLACEMENT FOR  
 120 THE PROPERTY, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO  
 121 YOU AND MAY PUT YOUR EQUITY IN THIS PROPERTY AT RISK."

122 (b) For a policy that provides for a deductible that  
 123 exceeds the deductibles authorized under s. 627.706(1)(b), the  
 124 following statement: "THIS POLICY EXCEEDS THE DEDUCTIBLE AMOUNT  
 125 PERMITTED FOR OTHER AUTHORIZED SINKHOLE LOSS INSURANCE POLICIES,  
 126 WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

127 (5) Notwithstanding s. 627.410, an insurer may establish  
 128 and use a limited sinkhole coverage insurance form without  
 129 filing the form with the office and requesting approval of the  
 130 form from the office.

131 (6) (a) An insurer may establish and use limited sinkhole  
 132 coverage insurance rates in accordance with the rate standards  
 133 provided in s. 627.062.

134 (b) For limited sinkhole coverage insurance rates filed  
 135 with the office before October 1, 2019, the insurer may also  
 136 establish and use rates in accordance with the rates, rating  
 137 schedules, or rating manuals filed by the insurer with the  
 138 office which allow the insurer a reasonable rate of return on  
 139 limited sinkhole coverage insurance written in this state.  
 140 Limited sinkhole coverage insurance rates established pursuant  
 141 to this paragraph are not subject to s. 627.062(2) (a) or (f). An  
 142 insurer shall notify the office of any change to such rates  
 143 within 30 days after the effective date of the change. The  
 144 notice must include the name of the insurer and the average  
 145 statewide percentage change in rates. Actuarial data with regard  
 146 to such rates for limited sinkhole coverage insurance must be  
 147 maintained by the insurer for 2 years after the effective date  
 148 of such rate change and is subject to examination by the office.  
 149 The office may require the insurer to incur the costs associated  
 150 with an examination. Upon examination, the office, in accordance  
 151 with generally accepted and reasonable actuarial techniques,  
 152 shall consider the rate factors in s. 627.062(2) (b) and (d) and  
 153 the standards in s. 627.062(2) (e) to determine whether the rate  
 154 is excessive, inadequate, or unfairly discriminatory.

155 (7) A surplus lines agent may export limited sinkhole  
 156 coverage insurance to an eligible surplus lines insurer without

157 | satisfying the conditions set forth in s. 626.916(1). This  
 158 | subsection expires July 1, 2020.

159 | (8) In addition to any other applicable requirements, an  
 160 | insurer providing limited sinkhole coverage insurance in this  
 161 | state must:

162 | (a) Notify the office at least 30 days before writing  
 163 | limited sinkhole coverage insurance in this state.

164 | (b) File a plan of operation and financial projections or  
 165 | revisions to such plan, as applicable, with the office.

166 | (9) A holder of a limited sinkhole coverage insurance  
 167 | policy authorized by this section who incurs a covered loss may  
 168 | not assign a post-loss claim except to a subsequent purchaser of  
 169 | the property who acquires insurable interest following a loss.

170 | Section 4. This act shall take effect July 1, 2016.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7105      PCB VMAS 16-01      Credit for Relevant Military Service  
**SPONSOR(S):** Veteran & Military Affairs Subcommittee, Smith  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Veteran & Military Affairs Subcommittee	12 Y, 0 N	Renner	Thompson
1) Government Operations Appropriations Subcommittee		White <i>CCW</i>	Topp <i>BDT</i>

**SUMMARY ANALYSIS**

The bill requires the Department of Business and Professional Regulation (DBPR), the Department of Health (DOH), and the Department of Agriculture and Consumer Services (DACs) to extend credit for relevant military service across a broad range of professions and occupational fields. The bill also requires the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Military Affairs (DMA) to provide CDL testing opportunities to Florida National Guard members at certain military facilities in Florida. In part, the bill:

- Requires DBPR to extend credit towards the requirements for construction and electrical contracting licensure for experience, training, or education received and completed during service in the United States Armed Forces, if the experience, training or education is substantially similar to the experience, training, or education required for licensure. DBPR will submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor with specific data on, among other things, how many veterans have applied, been denied, been accepted, and recommendations on ways the agencies could meet the needs of the veterans.
- Provides alternative eligibility criteria for a military servicemember seeking licensure as a health care practitioner through DOH in this state and extends the alternative eligibility criteria, and other current licensure eligibility criteria for military applicants, to the spouses of active duty military personnel who apply for a license as a health care practitioner.
- Removes the law that allows military spouses to obtain temporary licensure as a health care practitioner to conform to the new full-licensure eligibility provisions in the bill for active duty military spouses.
- Allows military health care practitioners who are practicing under a military platform, which is a training agreement with a nonmilitary health care provider, to be issued a temporary certificate to practice in this state.
- Exempts out-of-state or military-trained EMTs or paramedics from a certification examination requirement if the EMT or paramedic is already nationally certified or registered as recognized by DOH.
- Requires DACs to extend credit towards the requirements for licensure for military training or education received and completed during service in the United States Armed Forces, if the training or education is substantially similar to the training or education required for Private Security, Private Investigative and Recovery Services licenses, and requires DACs to submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor with specific statistics on, among other things, how many veterans have applied, been denied, and been accepted, and recommendations on ways the agencies could meet the needs of the veterans.
- Requires DHSMV and DMA to create a pilot program to make commercial driver license testing opportunities available to qualified members of the Florida National Guard. The testing must be held at a Florida National Guard Armory, Armed Forces Reserve Center, or Camp Blanding Joint Training Center.

The fiscal impact to the state is insignificant. There is no fiscal impact anticipated on local governments. Provisions of the bill may have a positive fiscal impact to veterans and their families.

The effective date of the bill is July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### **Veteran Statistics**

Currently, there are 21.8 million veterans in the United States, of which, over 1.6 million reside in Florida.<sup>1</sup> This makes Florida the state with the third largest veteran population, behind only California and Texas.<sup>2</sup> Approximately 299,000 of Florida's veterans are service-disabled.<sup>3</sup>

Florida's overall unemployment rate was 5 percent at the end of December 2015.<sup>4</sup> In 2014, the unemployment rate among Florida veterans was 5 percent compared to 5.3 percent nationally.<sup>5</sup> The unemployment rate among Florida Post-9/11 era veterans averaged 4.8 percent compared to 7.2 percent nationally.<sup>6</sup>

##### **Credentialing**

Veterans enter the civilian workforce trained in hundreds of occupations with relevance to the civilian workforce. However, receiving the credential (license or certification) in many of those occupations can require completing training and education standards despite already having highly relevant skills and experience. Such requirements impose additional costs on veterans and taxpayers, who pay both for the initial military training and for re-training outside of the military through veterans' education benefits.<sup>7</sup>

The federal government has undertaken several initiatives to streamline professional licensing and credentialing for veterans. These initiatives include efforts to provide civilian credentials and identify equivalencies between military and civilian occupations. However, ultimate authority for regulating entry into most occupations lies with state governments.<sup>8</sup> In particular, it has been found that state licensing boards have the responsibility for approving accelerated pathways leading to civilian certification or licensure.<sup>9</sup>

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<sup>1</sup> U.S. Census Bureau, *A Snapshot of Our Nation's Veterans*, available at: <http://www.census.gov/library/infographics/veterans.html> (last viewed January 20, 2016).

<sup>2</sup> Florida Department of Veterans' Affairs, *Fast Facts*, available at: [http://floridavets.org/?page\\_id=50](http://floridavets.org/?page_id=50) (last viewed January 20, 2016).

<sup>3</sup> U.S. Department of Veterans Affairs, Veterans Benefits Administration, Annual Benefits Report, Fiscal Year 2014, page 22 of 80, available at: <http://www.benefits.va.gov/REPORTS/abr/ABR-IntroAppendix-FY13-09262014.pdf> (Last visited January 18, 2016).

<sup>4</sup> U.S. Department of Labor, Bureau of Labor Statistics, released January 26, 2016.

<sup>5</sup> United States Congress Joint Economic Committee, *Economic Snapshot: Florida* (Oct. 2015), available at: [http://www.jec.senate.gov/public/\\_cache/files/2cb3bde9-27db-4584-86fc-f2ce46e4bb2e/florida.pdf](http://www.jec.senate.gov/public/_cache/files/2cb3bde9-27db-4584-86fc-f2ce46e4bb2e/florida.pdf) (last visited January 20, 2016).

<sup>6</sup> Id.

<sup>7</sup> National Governor's Association, Testimony – Occupational Licenses and Credentials for Veterans, available at: <http://www.nga.org/cms/home/federal-relations/nga-testimony/hsp-testimony/col2-content/main-content-list/testimony--occupational-licenses.html> (last visited January 28, 2016).

<sup>8</sup> U.S. Department of Labor Employment and Training Administration Office of Policy Development and Research and Veterans Employment Training Service, *Veterans' Licensing and Certification Demonstration Interim Report*, March 2015, available at: [https://wdr.doleta.gov/research/FullText\\_Documents/ETAOP\\_2015-03.pdf](https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2015-03.pdf) (last visited January 28, 2016).

<sup>9</sup> National Governor's Association, Testimony – Occupational Licenses and Credentials for Veterans, available at: <http://www.nga.org/cms/home/federal-relations/nga-testimony/hsp-testimony/col2-content/main-content-list/testimony--occupational-licenses.html> (last visited January 28, 2016).

## Enlistment Timeframes

According to DMA, the average length of a military enlistment contract is four to eight years. Each military branch offers a wide array of enlistment contract terms and options. A standard contract requires four years of active duty service and four years of inactive reserve service. This includes work within the particular military occupational specialty (MOS).<sup>10</sup>

## DBPR

### Present Situation

#### Construction and Electrical Contractors

DBPR is the agency charged with licensing and regulating various businesses and professions in the state, including, but not limited to, construction and electrical contractors. Both the Construction Industry Licensing Board<sup>11</sup> (CILB) and the Electrical Contractors' Licensing Board<sup>12</sup> (ECLB) are the regulatory bodies mandated with implementing parts I and II of ch. 489, F.S., respectively.

DBPR requires that all construction and electrical industry contractors be licensed.<sup>13</sup> Licensure may be issued by either registration or certification. DBPR must issue a certification or registration to each person qualified by the board and upon receipt of the original license fee.<sup>14</sup> Certified licenses are statewide and allow the contractor to work anywhere in Florida. Registered licenses are limited to certain local jurisdictions and only allow a contractor to work in the cities or counties where the contractor holds a certificate of competency.<sup>15</sup> More specifically, licensure by registration is available when the applicant has taken and passed a local competency examination, which permits the licensee to practice within that specified locale,<sup>16</sup> and licensure by certification is available when the applicant has taken and passed a state competency exam,<sup>17</sup> which permits the certificateholder to engage in contracting in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction.<sup>18</sup>

In order to be a certified contractor in Florida, a person must:<sup>19</sup>

- Be at least 18 years of age;
- Be of good moral character;
- Pass the certification examination, achieving a passing grade as established by board rule;
- Meet the educational/experience requirements;
- Pay all applicable fees;
- Obtain workers' compensation coverage; and
- Demonstrate financial responsibility.

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<sup>10</sup> Information regarding military enlistment contracts is can be found at the FindLaw website, available at: <http://military.findlaw.com/administrative-issues-benefits/what-is-a-military-enlistment-contract.html> (last visited January 28, 2016).

<sup>11</sup> The CILB oversees the following license categories: air conditioning, building, internal pollutant storage tank lining applicator, mechanical, plumbing, pollutant storage systems, pool/spa, precision tank tester, residential, roofing, sheet metal, solar, specialty, underground utility and excavation.

<sup>12</sup> The ECLB oversees the following license categories: electrical contractor, alarm system contractor I and II, specialty and electrical contractor.

<sup>13</sup> s. 489.115(1), F.S.

<sup>14</sup> s. 489.115(2)(a), F.S.

<sup>15</sup> Dep't of Business and Professional Regulation, Construction Industry Licensing Board, *Definition of Occupation and Class Codes*, available at: <http://www.myfloridalicense.com/DBPR/pro/cilb/codes.html>, (last visited January 26, 2016).

<sup>16</sup> DBPR website on the Construction Industry Licensing Board, available at <http://www.myfloridalicense.com/dbpr/pro/cilb/> (last visited January 8, 2016).

<sup>17</sup> See s. 489.111, F.S., on exam requirements.

<sup>18</sup> s. 489.115(2)(b), F.S.

<sup>19</sup> s. 489.511, F.S.

Section 489.111(2)(c), F.S., provides the experience and education requirements for all construction contractor applicants, without exception for military veterans. These requirements include four years of experience in the category applied for, with one year as a supervisor. Applicants may apply up to three years of college credit toward the experience requirements. The CILB reviews applicant experience when necessary to determine if the experience is within the category applied for.

Section 489.511(1)(b), F.S., provides the experience and education eligibility requirements for all electrical or alarm system contractor applicants, one of which requires at least four years of experience as a supervisor or contractor in the trade for which he or she is making application.

Section 489.511(1)(b)3.c., F.S., provides that an applicant for an electrical or alarm system contractor license may use technical experience in electrical or alarm system work with the military or a governmental entity to meet the minimum six year experience requirement.

Section 489.511(1)(b)3.e., F.S., provides that technical education may be used in conjunction with experience to meet the six year experience requirements, and technical training received in the military is acceptable under this provision. The ECLB reviews all applications to determine if the required training and experience has been met.

Additionally, both the CILB and the ECLB provide reciprocity if the applicant has a license from another state and the qualifications are substantially similar to Florida's requirements.<sup>20</sup>

#### Veteran and Spouse Contractors

Section 455.213, F.S., requires DBPR to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for an honorably discharged military veteran, or his or her spouse at the time of discharge, if he or she applies for a license within 60 months (five years) after discharge.

Section 455.02, F.S., provides that any member of the military on active duty in the military, who at the time he or she became active was in good standing with any DBPR administrative board,<sup>21</sup> he or she will be kept in good standing, without registering, paying fees or dues, or performing any act required for continued licensure, as long as the service member remains on active duty and does not engage in his or her profession in the private sector for profit.

#### **Proposed Changes**

The bill requires DBPR to provide a method by which honorably discharged veterans may apply for licensure. The method must include a veteran specific application and provide the following:

- Extension of credit to the fullest extent possible toward the requirements for licensure for military experience, training, or education received and completed during service in the U.S. Armed Forces if the experience, training, or education is substantially similar to the experience, training, or education required for licensure.
- For a Construction Contracting License: Up to three years of active duty service in the U.S. Armed Forces, regardless of duty or training, must be accepted to meet the four year experience requirement. A minimum of one additional year of active experience as a foreman in the trade, either civilian or military, is required to fulfill the experience requirement.
- For Electrical or Alarm System Contracting Licenses: At least four years of experience as a supervisor or contractor in the military equivalent to the trade for which he or she is making application must be accepted to meet the four year experience requirement. A minimum of one

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<sup>20</sup> ss. 489.115(3) and 489.511(5), F.S.

<sup>21</sup> See s. 20.165(4)(a), F.S., for a complete list of all boards and programs established within the Division of Professions.

additional year of active experience as a foreman in the trade, either civilian or military, is required to fulfill the experience requirement.

Additionally, beginning October 1, 2017, and annually thereafter, in conjunction with the boards, DBPR is required to prepare and submit a report titled Construction and Electrical Contracting Veteran Applicant Statistics to the President of the Senate, Speaker of the House of Representatives, and Governor. The report must include the:

- Number of applicants who identified themselves as veterans;
- Number of veterans whose applications for a license were approved, denied and reason for denial;
- Data on the application processing times for veterans; and
- Recommendations on ways to improve DBPR's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license for a profession or occupation regulated under parts I and II of ch. 489, F.S.

Lastly, the bill amends s. 489.511, F.S., to specify that anyone wishing to be an electrical contractor must have at least six years of technical education or training in addition to the technical experience in current law in electrical or alarm system work with the U.S. Armed Forces or a governmental entity.

## DOH

### **Present Situation**

#### Health Care Practitioner Licensure

DOH is responsible for the regulation of health care practitioners and health care facilities in Florida for the preservation of the health, safety, and welfare of the public.<sup>22</sup> The Division of Medical Quality Assurance (MQA) within DOH has general regulatory authority over health care practitioners.<sup>23</sup> MQA works in conjunction with 22 boards<sup>24</sup> and six councils to license and regulate more than 40 health care professions.<sup>25</sup> Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for MQA.

#### Military Health Care Practitioners

An individual who serves or has served as a health care practitioner in the U.S. Armed Forces, U.S. Reserve Forces, or the National Guard on active duty or has served on active duty with the U.S. Armed Forces as a health care practitioner in the U.S. Public Health Service is eligible for licensure in Florida.<sup>26</sup> DOH is required to waive the application fee, licensure fee, and unlicensed activity fee for such applicants. The applicant will be issued a license to practice in Florida if the applicant submits a completed application and:

- Receives an honorable discharge within the six months before or after submission of the application;

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<sup>22</sup> s. 20.43(1)(g), F.S.

<sup>23</sup> Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

<sup>24</sup> See s. 20.165(4)(a), F.S., for a complete list of all boards and programs established within the Division of Professions.

<sup>25</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2014-2015*, 3, available at <http://mqawebteam.com/annualreports/1415/#6> (last visited January 19, 2016).

<sup>26</sup> s. 456.024, F.S.

- Holds an active, unencumbered license issued by another state, the District of Columbia, or a U.S. territory or possession with no disciplinary action taken against it in the five years preceding the date of application;
- Attests that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the U.S. Department of Defense for a reason related to the practice of the profession for which he or she is applying;
- Has actively practiced the profession for which he or she is applying for the three years preceding the date of application; and
- Submits to a background screening, if required for the profession for which he or she is applying, and does not have any disqualifying offenses.<sup>27</sup>

DOH refers to this program as the Veterans Application for Licensure Online Response System (VALOR) and it additionally provides expedited licensing for honorably discharged veterans with an active license in another state.<sup>28</sup> To qualify for the VALOR program, a veteran must apply for a license six months before or after his or her honorable discharge from the U.S. Armed Forces.<sup>29</sup>

The VALOR licensing provisions do not apply to an individual who is serving or has served as a health care practitioner in the military for which state licensure is not required.

#### Veteran and Spouse Health Care Practitioners

Section 456.013, F.S., requires DOH to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran or his or her spouse at the time of discharge, if he or she applies to the department for an initial license within 60 months (five years) after the veteran is honorably discharged from any branch of the United States Armed Forces. The applicant must apply for the fee waiver using a form prescribed by the department and must submit supporting documentation as required by the department.

Section 456.024, F.S., provides that any member of the military on active duty in the military, who at the time he or she became active was in good standing with any DOH administrative board, will be kept in good standing without registering, paying fees or dues, or performing any act required for continued licensure, as long as the service member remains on active duty and does not engage in his or her profession in the private sector for profit.

Section 456.024, F.S., also provides temporary license privileges for spouses of active duty members of the Armed Forces.<sup>30</sup> DOH is authorized to issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States if the applicant submits a completed application, and the following:

- Application fee;
- Proof of his or her marriage to an active duty military member;
- Proof of a valid professional license in another state, the District of Columbia, any U.S. possession or territory, or any foreign jurisdiction;
- Proof of active duty military orders that the applicant and his or her spouse are both assigned to duty in Florida; and
- A complete set of the applicant's fingerprints to be submitted to the Department of Law Enforcement and the Federal Bureau of Investigation for state and federal criminal background check, at the applicant's expense.

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<sup>27</sup> s. 456.024(3)(a), F.S.

<sup>28</sup> See Department of Health, *Veterans*, available at <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html> (last visited Jan. 18, 2016).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

Section 456.024, F.S., requires an applicant who is issued a temporary professional license to practice as a dentist pursuant to this section to practice under the indirect supervision<sup>31</sup> of a dentist licensed pursuant to chapter 466, F.S.

### Emergency Medical Technicians and Paramedics

DOH, Division of Emergency Operations regulates emergency medical technicians (EMTs) and paramedics. "Emergency Medical Technician" is defined in s. 401.23, F.S., as a person who is certified by DOH to perform basic life support.<sup>32</sup> "Paramedic" means a person who is certified by DOH to perform basic and advanced life support.<sup>33</sup>

The National Emergency Medical Service (EMS) Education Standards define the minimal entry-level educational competencies, clinical behaviors, and judgments that must be met by Emergency Medical Service personnel to meet national practice guidelines.<sup>34</sup> The National EMS Education Standards assume there is a progression in practice from the entry-level Emergency Medical Responder level to the Paramedic level. That is, licensed personnel at each level are responsible for all knowledge, judgments, and behaviors at their level and at all levels preceding their level. According to these standards, there are four licensure levels of EMS personnel: Emergency Medical Responder; Emergency Medical Technician; Advanced Emergency Medical Technician; and Paramedic. For example, a paramedic is responsible for knowing and doing everything identified in that specific area, as well as knowing and doing all tasks in the three preceding levels.<sup>35</sup>

Under Florida law, an applicant for certification or recertification as an EMT or paramedic must:

- Have completed an appropriate training program as follows:
  - For an EMT, an EMT training program approved by DOH as equivalent to the most recent EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation; or
  - For a paramedic, a paramedic training program approved by DOH as equivalent to the most recent EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation;
- Certify under oath that he or she is not addicted to alcohol or any controlled substance;
- Certify under oath that he or she is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties;
- Within two years after program completion have passed an examination developed or required by DOH;
- For an EMT, hold a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent as defined by DOH rule;
- For a paramedic, hold a certificate of successful course completion in advanced cardiac life support from the American Heart Association or its equivalent as defined by DOH rule;

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<sup>31</sup> s. 466.003(9), F.S., defines "Indirect supervision" to mean supervision whereby a dentist authorizes the procedure and a dentist is on the premises while the procedures are performed.

<sup>32</sup> "Basic life support" means the assessment or treatment by a person qualified under this part through the use of techniques described in the EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation and approved by the DOH. The term includes the administration of oxygen and other techniques that have been approved and are performed under conditions specified by rules of the DOH.

<sup>33</sup> "Advanced life support" means assessment or treatment by a person qualified under this part through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards, pursuant to rules of the DOH.

<sup>34</sup> National Highway Traffic Safety Administration, Emergency Medical Services, Educational Standards and NSC: National Emergency Medical Services Education Standards, available at: <http://www.ems.gov/EducationStandards.htm> (last visited Jan. 19, 2016).

<sup>35</sup> *Id.*

- Submit the certification fee and the nonrefundable examination fee prescribed in s. 401.34, F.S., which examination fee will be required for each examination administered to an applicant; and
- Submit a completed application to DOH, which application documents compliance with the certification requirements.<sup>36</sup>

## Proposed Changes

### Military and Military Spouse Health Care Practitioners

The bill authorizes DOH to waive fees and issue a health care practitioner license to an active duty member of the military who applies six months before or after an honorable discharge in a profession for which licensure is not required in another state.<sup>37</sup> However, the applicant must provide evidence of military training or experience substantially equal to the requirements for licensure in Florida and proof of a passing score on the appropriate examination of a national or regional standards organization, if required for licensure in Florida.

The bill also authorizes DOH to issue a health care practitioner license to the spouse of an active duty military member in a profession that may not require a license in another state and allows the applicant to apply in the same manner as those military members applying for a health care practitioner license within six months of an honorable discharge, meaning the military spouse applicant will not be subject to application fees and will have a truncated application process. As is required for military applicants, the military spouse applicant who is not licensed in another state must provide evidence of training or experience equivalent to the requirements for licensure in Florida and provide proof of a passing score on the appropriate exam of a national or regional standards organization, if required for licensure in Florida. The bill repeals the law pertaining to temporary licensure of military spouses to conform to the new full-licensure provisions of the bill for military spouses.

The repealed provisions include the elimination of the requirement that a military spouse who has been issued a temporary dental license practice only under the supervision of a Florida dentist.

The bill allows military health care practitioners who are practicing under a military platform, which is a training agreement with a nonmilitary health care provider, to be issued a temporary certificate from DOH, which authorizes the practitioner to practice in this state for up to six months. This would allow military health care practitioners to develop and maintain technical proficiency in their profession.

The bill includes certain safeguards to ensure military health care practitioners applying for a temporary certificate will competently and safely practice in nonmilitary health care settings. An applicant who has been convicted of a felony or misdemeanor related to the practice of a health care profession, who has had a health care provider license revoked or suspended in another jurisdiction, who has failed to obtain a passing score on the Florida examination required to receive a license for his or her profession, or who is under investigation in another jurisdiction for an act that constitutes a violation under a Florida practice act is ineligible to apply for a temporary certificate. Upon application, the bill requires the military health care practitioner seeking a temporary certificate to:

- Submit proof that he or she will practice pursuant to a military platform;
- Submit a complete application and a nonrefundable application fee not to exceed \$50;
- Hold a valid and unencumbered license to practice as a health care professional in another state, the District of Columbia, or a possession or territory of the United States, or is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not

<sup>36</sup> Section 401.27, F.S.

<sup>37</sup>According to the DOH, professions not licensed in all states and jurisdictions, but are licensed in Florida, include: respiratory therapists and assistants, clinical laboratory personnel, medical physicists, opticians, athletic trainers, electrologists, nursing home administrators, midwives, orthotists and assistants, prosthetists and assistants, pedorthotists and assistants, orthotic fitters and assistants, certified chiropractic physician assistants, and pharmacy technicians. *Supra* note 34 at 3.

required for practice in the military and who provides evidence of training and experience substantially equivalent to the requirements for licensure in this state for that profession;

- Attest that he or she is not, at the time of application, the subject of a disciplinary proceeding in another jurisdiction or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying;
- Be determined to be competent in the profession for which they are applying for a temporary certificate; and
- Submit a set of fingerprints for a background screening, if required in this state, for a profession for which he or she is applying for a temporary certificate.

### Emergency Medical Technicians and Paramedics

The bill exempts out-of-state or military-trained EMTs or paramedics from the certification examination required by DOH if the EMT or paramedic provides proof of current nationally recognized emergency medical technician or paramedic certification or registration that is recognized by DOH.

## DACS

### **Present Situation**

#### Private Security, Private Investigative and Recovery Services

The Division of Licensing within DACS issues licenses to persons providing private security, private investigative and recovery services to the public pursuant to ch. 493, F.S. In 2015, the division regulated 26 different license types, including, six private investigator, seven private security officer, seven recovery agent, and six firearm; for a total of approximately 1.6 million private security, private investigative, and recovery services licenses in the state of Florida.<sup>38</sup>

Private Investigators are defined as any person who, for a fee, provides or performs private investigation,<sup>39</sup> which means investigation for the purpose of obtaining information with reference to certain activities which are set forth in statute.<sup>40</sup> A private security officer is defined as any individual who, for consideration:

- Advertises as providing or performs bodyguard services or otherwise guards persons or property;
- Attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or
- Attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof.<sup>41</sup>

The definition of a private security officer also includes armored car personnel and those personnel engaged in the transportation of prisoners.<sup>42</sup> A recovery agent is any individual who, for consideration,

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<sup>38</sup> Florida DACS, Division of Licensing, *Number of Licensees by Type As of December 31, 2015*, available at: [http://www.freshfromflorida.com/content/download/7471/118627/Number\\_of\\_Licensees\\_By\\_Type.pdf](http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf), (last visited January 26, 2016).

<sup>39</sup> s. 493.6101(17), F.S., provides the activities that provide grounds for an investigation include, crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation; the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons; the credibility of witnesses or other persons; the whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates; the location or recovery of lost or stolen property; the causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property; or the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation therefor.

<sup>40</sup> s. 493.6101(17), F.S.

<sup>41</sup> s. 493.6101(19), F.S.

advertises as providing or performs authorized<sup>43</sup> repossessions,<sup>44</sup> which are defined to mean the recovery of certain personal property as set forth in statute.<sup>45</sup>

General license requirements for all three professions require each applicant to:<sup>46</sup>

- Be at least 18 years old.
- Be of good moral character.
- Not have been adjudicated, involuntarily placed in a treatment facility for the mentally ill unless his or her capacity and competency has been judicially restored, and not been diagnosed as having an incapacitating mental illness, unless he or she is not currently impaired and has successfully completed a rehabilitation course.
- Not have been committed for controlled substance abuse or been found guilty of a crime relating to controlled substances in any other state within a three-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently abusing and has successfully completed a rehabilitation course.
- Be a U.S. citizen or permanent legal resident alien. For applicants who are not U.S. citizens, they must provide additional documentation and proof that they are a permanent and legal resident alien of the U.S.

Those applicants must provide to DACS, among other things, an application with the following:

- Name;
- Date of birth;
- Social Security number;<sup>47</sup>
- Place of Birth;
- A statement of all criminal convictions, including dispositions, and adjudications withheld;
- A statement of whether he or she has been adjudicated incapacitated or committed to a mental institution;
- A statement regarding any history of illegal drug use or alcohol abuse;
- One full-face, color photograph; and
- A full set of prints on the division's fingerprint card or submitted electronically via a personal inquiry waiver and the appropriate fees.<sup>48</sup>

In addition to the general licensure requirements above, depending on what class an applicant applies for, the applicant may have to prove he or she successfully completed certain training or education requirements and/or have relevant work experience.<sup>49</sup>

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<sup>42</sup> *Id.*

<sup>43</sup> s. 493.6101(2), requires repossessions to be performed by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause.

<sup>44</sup> s. 493.6101(21), F.S.

<sup>45</sup> s. 493.6101(22), F.S., restricts "repossession" to the recovery of the following items: a motor vehicle as defined under s. 320.01(1), F.S., a mobile home as defined in s. 320.01(2), F.S., a motorboat as defined under s. 327.02, F.S., an aircraft as defined in s. 330.27(1), F.S., a personal watercraft as defined in s. 327.02, F.S., an all-terrain vehicle as defined in s. 316.2074, F.S., farm equipment as defined under s. 686.402, F.S., or industrial equipment.

<sup>46</sup> s. 493.6106, F.S.(1), F.S.

<sup>47</sup> DACS will not disclose an applicant's social security number without consent of the applicant to anyone outside DACS unless required by law. See Chapter 119, F. S., 15 U.S.C., ss. 1681 et seq., 15 U.S.C. ss. 6801 et seq., 18 U.S.C. ss. 2721 et seq., Pub. L. No. 107-56 (USA Patriot Act of 2001), and Presidential Executive Order 13224.

<sup>48</sup> See also Fla. Dept. of Agriculture and Consumer Affairs, *Private Investigator Handbook*, p.11, available at: [https://licensing.freshfromflorida.com/forms/P-00093\\_PrivateInvestigatorHandbook.pdf](https://licensing.freshfromflorida.com/forms/P-00093_PrivateInvestigatorHandbook.pdf); *Security Officer Handbook*, p. 16, available at: [https://licensing.freshfromflorida.com/forms/P-00092\\_SecurityOfficerHandbook.pdf](https://licensing.freshfromflorida.com/forms/P-00092_SecurityOfficerHandbook.pdf); *Recovery Agent Handbook*, at p. 9, [https://licensing.freshfromflorida.com/forms/P-00094\\_RecoveryAgentHandbook.pdf](https://licensing.freshfromflorida.com/forms/P-00094_RecoveryAgentHandbook.pdf), (Last visited January 22, 2016).

<sup>49</sup> See ss. 493.6203, 493.6303, and 493.6403, F.S.

DACS currently requires returning veterans and their spouses to pay application fees, fingerprint fees, and all other applicable fees when applying for licenses under ch. 493, F.S., as private investigators, security officers or recovery agents.

In addition, current law does not specifically require DACS or its boards to extend credit towards licensure for relevant training, experience, or education gained in the military.

### **Proposed Changes**

The bill requires DACS to provide a method by which honorably discharged veterans may apply for licensure. The method must include the following:

- Extension of credit towards the requirements for licensure for military training or education received and completed during service in the Armed Forces, if the training or education is substantially similar to the training or education required for licensure.
- Identification of overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicant, and notification to the applicant of the overlaps and gaps.
- Assistance in identifying programs that offer training and education needed to meet the licensure requirements.

Additionally, beginning October 1, 2017, and annually thereafter, DACS is required to submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor. The report must include the following:

- Number of applicants who identified themselves as veterans.
- Number of veterans whose applications for a license were approved, denied and reason for denial.
- Data on the application processing times for veterans.
- Information on DACS efforts to assist veterans in identifying programs that offer training and education needed to meet the requirements for licensure.
- Information on DACS identification of the most common overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicants.
- Recommendations on ways to improve DACS' ability to meet the needs of veterans that would effectively address the challenges that veterans face when separating from military service and seeking a license for a profession or occupation regulated under ch. 493, F.S.

## **DHSMV**

### **Present Situation<sup>50</sup>**

#### **Troops to Truckers**

Active duty and recently separated servicemembers that have experience driving large trucks in the military are currently eligible to obtain a Florida Commercial Driver License (CDL) without retaking the skills tests normally required. FMCSA Regulation 49 CFR, Section 383.77, gives states the authority to substitute two years of commercial motor vehicle safe driving experience in the military for the skills test portion of the commercial driver license skills test. The process allows states to assist veterans and active duty personnel in their transition from their military occupation to a civilian career.

Current law gives DHSMV the authority to waive the knowledge, endorsement, and skills tests for an applicant who is otherwise qualified and who surrenders a driver license issued by the U.S. Armed

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<sup>50</sup> Information on the "Troops to Truckers" program is available at: <http://www.troopstotruckers.com/> (last visited January 7, 2016).

Forces if the driver applies for a Florida license of an equal or lesser classification.<sup>51</sup> DHSMV implements this provision pursuant to agency rule.<sup>52</sup> The provision:

- Allows active duty and those who are within 90 days of separation to qualify for the skills test waiver;
- Requires the applicant to meet all the test waiver requirements within 120 days of separation; and
- Requires the applicant to have driven military vehicles two years prior to the waiver application that in the civilian world would have required a CDL.

Specifically, applicants who seek a waiver of CDL skills testing due to military experience must do the following:

- Pass all required written knowledge exams for the CDL class and endorsements they will be issued.
- Apply for the CDL qualification waiver while on active duty status or within 90 days of separation of service. The applicant must provide a military active duty identification card or DD-214 (military discharge papers). The skills test waiver process must be completed, and the CDL issued, within 120 days of separation from service.
- Certify that for at least two years immediately preceding the application, he or she operated a motor vehicle representative of the CDL class and endorsements for which he or she is applying.
- Present the Certification for Waiver of Skill Test for Military Personnel form<sup>53</sup> filled out in its entirety and signed by his or her commanding officer or designee.<sup>54</sup>

### **Proposed Changes**

The bill requires DHSMV and DMA to jointly conduct a pilot program to provide onsite commercial driver license testing opportunities to qualified members of the Florida National Guard pursuant to the DHSMV commercial driver license skills test waiver under s. 322.12, F.S., described previously. Testing must be held at a Florida National Guard Armory, an Armed Forces Reserve Center, or the Camp Blanding Joint Training Center. The pilot program shall be accomplished using existing funds appropriated to the departments.

DHSMV and DMA are required to submit, by June 30, 2017, a report on the results of the pilot program to the President of the Senate and the Speaker of the House of Representatives.

### **B. SECTION DIRECTORY:**

- |           |   |
|-----------|---|
| Section 1 | Amends s. 401.27, F.S., relating to emergency medical technician and paramedic personnel; standards and certification.                          |
| Section 2 | Amends s. 456.024, F.S., relating to members of the Armed Forces in good standing with administrative boards or DOH; spouses; licensure.        |
| Section 3 | Creates s. 456.0241, F.S., relating to temporary training certificates for active duty military health care practitioners.                      |
| Section 4 | Creates s. 489.1131, F.S., relating to the extension of credit for relevant military service toward construction contracting licensure by DBPR. |

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<sup>51</sup> s. 322.12, F.S.

<sup>52</sup> Rulemaking Authority: s. 322.02(6), F.S. Law Implemented: s. 322.12, F.S.

<sup>53</sup> A copy of the Certification for Waiver of Skill Test for Military Personnel form is available at: <http://www.flhsmv.gov/html/HSMV71054.pdf> (last visited January 7, 2016).

<sup>54</sup> Rule 15A-7.018, F.A.C., Military Qualifications for Waiver of Commercial Driver License Skills Test.

- Section 5 Amends s. 489.511, F.S., relating to DBPR certifications, applications, examinations, and endorsements.
- Section 6. Creates s. 489.5161, F.S., relating to the extension of credit for relevant military service toward electrical and alarm system contracting licensure by DBPR.
- Section 7. Creates s. 493.61035, F.S., requiring DACS to extend credit for relevant military training and education towards the requirement for private security, private investigative and recovery services licensure.
- Section 8. Requires DHSMV and DMA to create and conduct a commercial driver license testing pilot program.
- Section 9. Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

##### DOH

The revenues from health care practitioner licensure fees will be reduced due to the expansion of fee waivers for military spouses applying for licensure. The bill also allows the DOH to assess up to a \$50 application fee and renewal fee for temporary certificates for active duty military health care professionals. The DOH has the authority to waive the fee, yet if assessed, the fee revenues generated would support the regulatory expenses of the licenses. Since the implementation of current legislation granting fee waivers for honorably discharged veterans, the department has issued 150 licenses for a total of \$55,017 in unrealized revenue. Since implementation of legislation granting temporary licenses for military spouses, the department has issued 112 temporary licenses.<sup>55</sup> Currently, there is no temporary license available for active duty military health care professionals except for areas of critical need, which requires an active license in another state and has an application fee of \$300 (this fee is waived for active duty military health care professionals).

#### 2. Expenditures:

According to each agency impacted by the bill, the fiscal impact is insignificant and implementation can be accomplished within existing resources.

##### DACS

According to DACS, the cost to implement the bill will be minimal with no recurring or non-recurring fiscal impact and "can be accomplished within existing resources."<sup>56</sup> Currently, all moneys paid under ch. 493, F.S., are deposited in the Division of Licensing Trust Fund pursuant to s. 493.6117, F.S. There may be an insignificant negative fiscal impact connected to the review of current licensure requirements. This will be absorbed within agency resources.

##### DOH

The DOH may experience a recurring increase in workload associated with the expanded eligibility criteria of the military fee waiver for health care professional licensure. The number of qualified applicants who will apply for licensure is indeterminate however, it is anticipated that current resources are adequate to absorb the impact.

<sup>55</sup> DOH HB 941 Agency Analysis, December 15, 2015.

<sup>56</sup> DACS SB 1504 Agency Analysis, January 25, 2016.

The DOH provisions are also included in CS/HB 941 (SB 918).

#### DBPR

According to DBPR, there is no fiscal impact anticipated on the department.<sup>57</sup>

#### DHSMV and DMA

There will be no additional costs to DHSMV for the commercial drivers' license pilot program. Currently, DHSMV operates a program titled 'Florida Licensing on Wheels (FLOW)',<sup>58</sup> which provides a convenient method to renew a driver license, obtain a replacement driver license, change a name or address on a driver license, get an identification card, etc. This requirement may be incorporated into DHSMV's existing FLOW program and will not have a negative fiscal impact on state funds.

According to DMA, there is no fiscal impact on the department. Implementation will be conducted during weekend training.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Honorably discharged veterans may be able to utilize their experience, education, and training that they obtained while in the Armed Forces for the required education and training for various licenses issued by DACS, DOH, DBPR, and CDLs from DHSMV.

### D. FISCAL COMMENTS:

Rulemaking may be required by DOH, DBPR, and DACS to develop veteran specific application processes and define what military education and training is substantially similar to current license requirements. Tracking mechanisms may need to be put in place for veterans' applications, approvals, denials, and the reasons for the denials. There may also be costs associated with preparing the annual reports required by DBPR, and DACS. According to each agency, the fiscal impact to implement the provisions of the bill will be insignificant and can be accomplished within existing resources.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

#### 2. Other:

None.

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<sup>57</sup> DBPR HB 7105 Agency Analysis, February 12, 2016.

<sup>58</sup> Information on the FLOW program is available at the DHMSV FLOW website here: <http://www.flhsmv.gov/offices/FLOW.htm> (last visited January 26, 2016).

**B. RULE-MAKING AUTHORITY:**

Rulemaking may be required by DOH, DBPR, and DACS to develop veteran specific application processes and define what military education and training is substantially similar to current license requirements. Since 2010, the Legislature pursuant to s. 120.541(3), F.S., has required all rules having certain potential negative fiscal impacts exceeding \$1 million over five years be submitted to, and ratified by, the Legislature before the rule may go into effect. According to each agency, the fiscal impact to implement the provisions of the bill will be insignificant and can be accomplished within existing resources.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 2, 2016, the Veteran & Military Affairs Subcommittee adopted one amendment to the PCB. The amendment makes two changes to the DOH provision clarifying that:

- DOH determines what is considered a nationally recognized exam for EMTs and Paramedics; and
- Failure to obtain a passing score on a Florida health care practitioner exam precludes an applicant from being able to obtain the temporary training certificate.

This bill analysis has been updated to reflect the amendment.

1                                   A bill to be entitled  
2           An act relating to credit for relevant military  
3           service; amending s. 401.27, F.S.; revising the  
4           application requirements for emergency medical  
5           technician or paramedic certification; amending s.  
6           456.024, F.S.; directing the Department of Health, or  
7           the applicable board pursuant to chapter 456, F.S., to  
8           issue health care practitioner licenses to eligible  
9           military health care practitioners and eligible health  
10          care practitioners who are spouses of active duty  
11          servicemembers; deleting provisions for the issuance  
12          of temporary professional licenses to the spouses of  
13          active duty servicemembers; creating s. 456.0241,  
14          F.S.; directing the Department of Health to issue  
15          temporary certificates to eligible active duty  
16          military health care practitioners; providing  
17          definitions; providing requirements for temporary  
18          certification; providing for expiration of such  
19          certification; providing exemptions; directing the  
20          department to set application and renewal fees,  
21          develop and furnish an application form, and adopt  
22          rules; creating s. 489.1131, F.S.; directing the  
23          Department of Business and Professional Regulation to  
24          provide a method by which honorably discharged  
25          veterans may apply for construction contracting  
26          licensure; authorizing the Construction Industry

27 Licensing Board to adopt rules; directing the  
 28 department, in conjunction with the board, to annually  
 29 prepare and submit a specified report to the Governor  
 30 and Legislature; amending s. 489.511, F.S.; revising  
 31 eligibility criteria for taking the electrical or  
 32 alarm system contractor certification examination;  
 33 creating s. 489.5161, F.S.; directing the Department  
 34 of Business and Professional Regulation to provide a  
 35 method by which honorably discharged veterans may  
 36 apply for electrical or alarm system contracting  
 37 licensure; authorizing the Electrical Contractors'  
 38 Licensing Board to adopt rules; directing the  
 39 department, in conjunction with the board, to annually  
 40 prepare and submit a specified report to the Governor  
 41 and Legislature; creating s. 493.61035, F.S.;

42 directing the Department of Agriculture and Consumer  
 43 Services to provide a method by which honorably  
 44 discharged veterans may apply for private  
 45 investigative, private security, and repossession  
 46 services licensure; authorizing the department to  
 47 adopt rules; directing the department to annually  
 48 prepare and submit a specified report to the Governor  
 49 and Legislature; directing the Department of Highway  
 50 Safety and Motor Vehicles and the Department of  
 51 Military Affairs to conduct a commercial motor vehicle  
 52 driver license testing pilot program; specifying

53 testing locations and funding; requiring the  
 54 departments to submit a report to the Legislature by a  
 55 specified date; providing for repeal of the program;  
 56 providing an effective date.

57  
 58 Be It Enacted by the Legislature of the State of Florida:

59  
 60 Section 1. Subsection (12) of section 401.27, Florida  
 61 Statutes, is amended to read:

62 401.27 Personnel; standards and certification.—

63 (12) An applicant for certification as an emergency  
 64 medical technician or paramedic who is trained outside the  
 65 state, or trained in the military, must provide proof of a  
 66 current, nationally recognized emergency medical technician or  
 67 paramedic certification or registration that is recognized by  
 68 the department and based upon successful completion of a  
 69 training program approved by the department as being equivalent  
 70 to the most recent EMT-Basic or EMT-Paramedic National Standard  
 71 Curriculum or the National EMS Education Standards of the United  
 72 States Department of Transportation and hold a current  
 73 certificate of successful course completion in cardiopulmonary  
 74 resuscitation (CPR) or advanced cardiac life support for  
 75 emergency medical technicians or paramedics, respectively, to be  
 76 eligible for ~~the certification examination. The applicant must~~  
 77 ~~successfully complete the certification examination within 2~~  
 78 ~~years after the date of the receipt of his or her application by~~

79 ~~the department. After 2 years, the applicant must submit a new~~  
 80 ~~application, meet all eligibility requirements, and submit all~~  
 81 ~~fees to reestablish eligibility to take the certification~~  
 82 ~~examination.~~

83 Section 2. Subsections (3) and (4) of section 456.024,  
 84 Florida Statutes, are amended to read:

85 456.024 Members of United States Armed Forces in good  
 86 standing with administrative boards or the department; spouses;  
 87 licensure.-

88 (3) (a) A person is eligible for licensure as a health care  
 89 practitioner in this state if he or she:

90 1. who Serves or has served as a health care practitioner  
 91 in the United States Armed Forces, the United States Reserve  
 92 Forces, or the National Guard;

93 2. or a person who Serves or has served on active duty  
 94 with the United States Armed Forces as a health care  
 95 practitioner in the United States Public Health Service; or

96 3. Is a health care practitioner in another state, the  
 97 District of Columbia, or a possession or territory of the United  
 98 States and is the spouse of a person serving on active duty with  
 99 the United States Armed Forces is eligible for licensure in this  
 100 state.

101

102 The department shall develop an application form, and each  
 103 board, or the department if there is no board, shall waive the  
 104 application fee, licensure fee, and unlicensed activity fee for

105 such applicants. For purposes of this subsection, "health care  
 106 practitioner" means a health care practitioner as defined in s.  
 107 456.001 and a person licensed under part III of chapter 401 or  
 108 part IV of chapter 468.

109 (b) ~~(a)~~ The board, or the department if there is no board,  
 110 shall issue a license to practice in this state to a person who:

111 1. Submits a complete application.

112 2. If he or she is member of the United States Armed  
 113 Forces, submits proof that he or she has received ~~Receives~~ an  
 114 honorable discharge within 6 months before, or will receive an  
 115 honorable discharge within 6 months after, the date of  
 116 submission of the application.

117 3.a. Holds an active, unencumbered license issued by  
 118 another state, the District of Columbia, or a possession or  
 119 territory of the United States and who has not had disciplinary  
 120 action taken against him or her in the 5 years preceding the  
 121 date of submission of the application;

122 b. Is a military health care practitioner in a profession  
 123 for which licensure in a state or jurisdiction is not required  
 124 to practice in the United States Armed Forces, if he or she  
 125 submits to the department evidence of military training or  
 126 experience substantially equivalent to the requirements for  
 127 licensure in this state in that profession and evidence that he  
 128 or she has obtained a passing score on the appropriate  
 129 examination of a national or regional standards organization if  
 130 required for licensure in this state; or

131 c. Is the spouse of a person serving on active duty in the  
 132 United States Armed Forces and is a health care practitioner in  
 133 a profession for which licensure in another state or  
 134 jurisdiction is not required, if he or she submits to the  
 135 department evidence of training or experience substantially  
 136 equivalent to the requirements for licensure in this state in  
 137 that profession and evidence that he or she has obtained a  
 138 passing score on the appropriate examination of a national or  
 139 regional standards organization if required for licensure in  
 140 this state.

141 4. Attests that he or she is not, at the time of  
 142 submission of the application, the subject of a disciplinary  
 143 proceeding in a jurisdiction in which he or she holds a license  
 144 or by the United States Department of Defense for reasons  
 145 related to the practice of the profession for which he or she is  
 146 applying.

147 5. Actively practiced the profession for which he or she  
 148 is applying for the 3 years preceding the date of submission of  
 149 the application.

150 6. Submits a set of fingerprints for a background  
 151 screening pursuant to s. 456.0135, if required for the  
 152 profession for which he or she is applying.

153  
 154 The department shall verify information submitted by the  
 155 applicant under this subsection using the National Practitioner  
 156 Data Bank.

157        (c) ~~(b)~~ Each applicant who meets the requirements of this  
 158 subsection shall be licensed with all rights and  
 159 responsibilities as defined by law. The applicable board, or the  
 160 department if there is no board, may deny an application if the  
 161 applicant has been convicted of or pled guilty or nolo  
 162 contendere to, regardless of adjudication, any felony or  
 163 misdemeanor related to the practice of a health care profession  
 164 regulated by this state.

165        (d) ~~(e)~~ An applicant for initial licensure under this  
 166 subsection must submit the information required by ss.  
 167 456.039(1) and 456.0391(1) no later than 1 year after the  
 168 license is issued.

169        ~~(4)(a) The board, or the department if there is no board,  
 170 may issue a temporary professional license to the spouse of an  
 171 active duty member of the Armed Forces of the United States who  
 172 submits to the department:~~

173            1. ~~A completed application upon a form prepared and  
 174 furnished by the department in accordance with the board's  
 175 rules;~~

176            2. ~~The required application fee;~~

177            3. ~~Proof that the applicant is married to a member of the  
 178 Armed Forces of the United States who is on active duty;~~

179            4. ~~Proof that the applicant holds a valid license for the  
 180 profession issued by another state, the District of Columbia, or  
 181 a possession or territory of the United States, and is not the  
 182 subject of any disciplinary proceeding in any jurisdiction in~~

183 ~~which the applicant holds a license to practice a profession~~  
 184 ~~regulated by this chapter;~~

185 ~~5. Proof that the applicant's spouse is assigned to a duty~~  
 186 ~~station in this state pursuant to the member's official active~~  
 187 ~~duty military orders; and~~

188 ~~6. Proof that the applicant would otherwise be entitled to~~  
 189 ~~full licensure under the appropriate practice act, and is~~  
 190 ~~eligible to take the respective licensure examination as~~  
 191 ~~required in Florida.~~

192 ~~(b) The applicant must also submit to the Department of~~  
 193 ~~Law Enforcement a complete set of fingerprints. The Department~~  
 194 ~~of Law Enforcement shall conduct a statewide criminal history~~  
 195 ~~check and forward the fingerprints to the Federal Bureau of~~  
 196 ~~Investigation for a national criminal history check.~~

197 ~~(c) Each board, or the department if there is no board,~~  
 198 ~~shall review the results of the state and federal criminal~~  
 199 ~~history checks according to the level 2 screening standards in~~  
 200 ~~s. 435.04 when granting an exemption and when granting or~~  
 201 ~~denying the temporary license.~~

202 ~~(d) The applicant shall pay the cost of fingerprint~~  
 203 ~~processing. If the fingerprints are submitted through an~~  
 204 ~~authorized agency or vendor, the agency or vendor shall collect~~  
 205 ~~the required processing fees and remit the fees to the~~  
 206 ~~Department of Law Enforcement.~~

207 ~~(e) The department shall set an application fee, which may~~  
 208 ~~not exceed the cost of issuing the license.~~

209 ~~(f) A temporary license expires 12 months after the date~~  
 210 ~~of issuance and is not renewable.~~

211 ~~(g) An applicant for a temporary license under this~~  
 212 ~~subsection is subject to the requirements under s. 456.013(3) (a)~~  
 213 ~~and (c).~~

214 ~~(h) An applicant shall be deemed ineligible for a~~  
 215 ~~temporary license pursuant to this section if the applicant:~~

216 ~~1. Has been convicted of or pled nolo contendere to,~~  
 217 ~~regardless of adjudication, any felony or misdemeanor related to~~  
 218 ~~the practice of a health care profession;~~

219 ~~2. Has had a health care provider license revoked or~~  
 220 ~~suspended from another of the United States, the District of~~  
 221 ~~Columbia, or a United States territory;~~

222 ~~3. Has been reported to the National Practitioner Data~~  
 223 ~~Bank, unless the applicant has successfully appealed to have his~~  
 224 ~~or her name removed from the data bank; or~~

225 ~~4. Has previously failed the Florida examination required~~  
 226 ~~to receive a license to practice the profession for which the~~  
 227 ~~applicant is seeking a license.~~

228 ~~(i) The board, or department if there is no board, may~~  
 229 ~~revoke a temporary license upon finding that the individual~~  
 230 ~~violated the profession's governing practice act.~~

231 ~~(j) An applicant who is issued a temporary professional~~  
 232 ~~license to practice as a dentist pursuant to this section must~~  
 233 ~~practice under the indirect supervision, as defined in s.~~  
 234 ~~466.003, of a dentist licensed pursuant to chapter 466.~~

235 Section 3. Section 456.0241, Florida Statutes, is created  
 236 to read:

237 456.0241 Temporary certificate for active duty military  
 238 health care practitioners.-

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

240 (a) "Military health care practitioner" means:

241 1. A person practicing as a health care practitioner as  
 242 defined in s. 456.001, as a person licensed under part III of  
 243 chapter 401, or as a person licensed under part IV of chapter  
 244 468 who is serving on active duty in the United States Armed  
 245 Forces, the United States Reserve Forces, or the National Guard;  
 246 or

247 2. A person who is serving on active duty in the United  
 248 States Armed Forces and serving in the United States Public  
 249 Health Service.

250 (b) "Military platform" means a military training  
 251 agreement with a nonmilitary health care provider that is  
 252 designed to develop and support medical, surgical, or other  
 253 health care treatment opportunities in a nonmilitary health care  
 254 provider setting to authorize a military health care  
 255 practitioner to develop and maintain the technical proficiency  
 256 necessary to meet the present and future health care needs of  
 257 the United States Armed Forces. Such agreements may include  
 258 Training Affiliation Agreements and External Resource Sharing  
 259 Agreements.

260 (2) The department may issue a temporary certificate to an

261 active duty military health care practitioner to practice in a  
 262 regulated profession in this state if the applicant:

263 (a) Submits proof that he or she will be practicing  
 264 pursuant to a military platform.

265 (b) Submits a complete application and a nonrefundable  
 266 application fee.

267 (c) Holds an active, unencumbered license to practice as a  
 268 health care professional issued by another state, the District  
 269 of Columbia, or a possession or territory of the United States  
 270 or is a military health care practitioner in a profession for  
 271 which licensure in a state or jurisdiction is not required for  
 272 practice in the United States Armed Forces and provides evidence  
 273 of military training and experience substantially equivalent to  
 274 the requirements for licensure in this state in that profession.

275 (d) Attests that he or she is not, at the time of  
 276 submission of the application, the subject of a disciplinary  
 277 proceeding in a jurisdiction in which he or she holds a license  
 278 or by the United States Department of Defense for reasons  
 279 related to the practice of the profession for which he or she is  
 280 applying.

281 (e) Has been determined to be competent in the profession  
 282 for which he or she is applying.

283 (f) Submits a set of fingerprints for a background  
 284 screening pursuant to s. 456.0135, if required for the  
 285 profession for which he or she is applying.  
 286

287 The department shall verify information submitted by the  
 288 applicant under this subsection using the National Practitioner  
 289 Data Bank.

290 (3) A temporary certificate issued under this section  
 291 expires 6 months after issuance but may be renewed upon proof of  
 292 continuing military orders for active duty assignment in this  
 293 state and evidence that the military health care practitioner  
 294 continues to be a military platform participant.

295 (4) A military health care practitioner applying for a  
 296 temporary certificate under this section is exempt from ss.  
 297 456.039-456.046. All other provisions of this chapter apply to  
 298 such military health care practitioner.

299 (5) An applicant for a temporary certificate under this  
 300 section is deemed ineligible if he or she:

301 (a) Has been convicted of or pled guilty or nolo  
 302 contendere to, regardless of adjudication, any felony or  
 303 misdemeanor related to the practice of a health care profession;

304 (b) Has had a health care provider license revoked or  
 305 suspended in another state, the District of Columbia, or a  
 306 possession or territory of the United States;

307 (c) Has failed to obtain a passing score on the Florida  
 308 examination required to receive a license to practice the  
 309 profession for which he or she is applying; or

310 (d) Is under investigation in another jurisdiction for an  
 311 act that would constitute a violation of the applicable  
 312 licensing chapter or this chapter until the investigation is

313 complete and all charges against him or her are disposed of by  
 314 dismissal, nolle prosequi, or acquittal.

315 (6) The department shall, by rule, set an application fee  
 316 not to exceed \$50 and a renewal fee not to exceed \$50.

317 (7) Application shall be made on a form prescribed and  
 318 furnished by the department.

319 (8) The department shall adopt rules to implement this  
 320 section.

321 Section 4. Section 489.1131, Florida Statutes, is created  
 322 to read:

323 489.1131 Credit for relevant military training and  
 324 education.-

325 (1) The department shall provide a method by which  
 326 honorably discharged veterans may apply for licensure. The  
 327 method must include a veteran-specific application and provide:

328 (a) To the fullest extent possible, credit toward the  
 329 requirements for licensure for military experience, training,  
 330 and education received and completed during service in the  
 331 United States Armed Forces if the military experience, training,  
 332 or education is substantially similar to the experience,  
 333 training, or education required for licensure.

334 (b) Acceptance of up to 3 years of active duty service in  
 335 the United States Armed Forces, regardless of duty or training,  
 336 to meet the experience requirements of s. 489.111(2)(c). At  
 337 least 1 additional year of active experience as a foreman in the  
 338 trade, either civilian or military, is required to fulfill the

339 experience requirement of s. 489.111(2)(c).

340

341 The board may adopt rules pursuant to s. 120.536(1) and s.  
 342 120.54 to implement this subsection.

343 (2) Notwithstanding any other provision of law, beginning  
 344 October 1, 2017, and annually thereafter, the department, in  
 345 conjunction with the board, is directed to prepare and submit a  
 346 report titled "Construction and Electrical Contracting Veteran  
 347 Applicant Statistics" to the Governor, the President of the  
 348 Senate, and the Speaker of the House of Representatives. The  
 349 report must include statistics and information relating to this  
 350 section and s. 489.5161 which detail:

351 (a) The number of applicants who identified themselves as  
 352 veterans.

353 (b) The number of veterans whose application for a license  
 354 was approved.

355 (c) The number of veterans whose application for a license  
 356 was denied, including the reasons for denial.

357 (d) Data on the application processing times for veterans.

358 (e) Recommendations on ways to improve the department's  
 359 ability to meet the needs of veterans which would effectively  
 360 address the challenges that veterans face when separating from  
 361 military service and seeking a license regulated by the  
 362 department pursuant to part I of chapter 489.

363 Section 5. Paragraph (b) of subsection (1) of section  
 364 489.511, Florida Statutes, is amended to read:

365           489.511 Certification; application; examinations;  
 366 endorsement.—

367           (1)

368           (b) Any person desiring to be certified as a contractor  
 369 shall apply to the department in writing and must meet the  
 370 following criteria:

371           1. Be of good moral character;

372           2. Pass the certification examination, achieving a passing  
 373 grade as established by board rule; and

374           3. Meet eligibility requirements according to one of the  
 375 following criteria:

376           a. Has, within the 6 years immediately preceding the  
 377 filing of the application, at least 3 years of ~~years~~ proven  
 378 management experience in the trade or education equivalent  
 379 thereto, or a combination thereof, but not more than one-half of  
 380 such experience may be educational equivalent;

381           b. Has, within the 8 years immediately preceding the  
 382 filing of the application, at least 4 years of ~~years~~ experience  
 383 as a supervisor or contractor in the trade for which he or she  
 384 is making application, or at least 4 years of experience as a  
 385 supervisor in electrical or alarm system work with the United  
 386 States Armed Forces;

387           c. Has, within the 12 years immediately preceding the  
 388 filing of the application, at least 6 years of comprehensive  
 389 training, technical education, or supervisory experience  
 390 associated with an electrical or alarm system contracting

391 business, or at least 6 years of technical experience,  
 392 education, or training in electrical or alarm system work with  
 393 the United States Armed Forces or a governmental entity;

394 d. Has, within the 12 years immediately preceding the  
 395 filing of the application, been licensed for 3 years as a  
 396 professional engineer who is qualified by education, training,  
 397 or experience to practice electrical engineering; or

398 e. Has any combination of qualifications under sub-  
 399 subparagraphs a.-c. totaling 6 years of experience.

400 Section 6. Section 489.5161, Florida Statutes, is created  
 401 to read:

402 489.5161 Credit for relevant military training and  
 403 education.-

404 (1) The department shall provide a method by which  
 405 honorably discharged veterans may apply for licensure. The  
 406 method must include a veteran-specific application and provide,  
 407 to the fullest extent possible, credit toward the requirements  
 408 for licensure for military experience, training, and education  
 409 received and completed during service in the United States Armed  
 410 Forces if the military experience, training, or education is  
 411 substantially similar to the experience, training, or education  
 412 required for licensure. The board may adopt rules pursuant to s.  
 413 120.536(1) and s. 120.54 to implement this subsection.

414 (2) Notwithstanding any other provision of law, beginning  
 415 October 1, 2017, and annually thereafter, the department, in  
 416 conjunction with the board, is directed to prepare and submit a

417 report titled "Construction and Electrical Contracting Veteran  
 418 Applicant Statistics" to the Governor, the President of the  
 419 Senate, and the Speaker of the House of Representatives. The  
 420 report shall include statistics and information relating to this  
 421 section and s. 489.1131 which detail:

422 (a) The number of applicants who identified themselves as  
 423 veterans.

424 (b) The number of veterans whose application for a license  
 425 was approved.

426 (c) The number of veterans whose application for a license  
 427 was denied, including data on the reasons for denial.

428 (d) Data on the application processing times for veterans.

429 (e) Recommendations on ways to improve the department's  
 430 ability to meet the needs of veterans which would effectively  
 431 address the challenges that veterans face when separating from  
 432 military service and seeking a license regulated by the  
 433 department pursuant to part II of chapter 489.

434 Section 7. Section 493.61035, Florida Statutes, is created  
 435 to read:

436 493.61035 Credit for relevant military training and  
 437 education.-

438 (1) The department shall provide a method by which  
 439 honorably discharged veterans may apply for licensure. The  
 440 method must include:

441 (a) To the fullest extent possible, credit toward the  
 442 requirements for licensure for military training and education

443 received and completed during service in the United States Armed  
 444 Forces if the military training or education is substantially  
 445 similar to the training or education required for licensure.

446 (b) Identification of overlaps and gaps between the  
 447 requirements for licensure and the military training or  
 448 education received and completed by the veteran, and subsequent  
 449 notification to the veteran of the overlaps and gaps.

450 (c) Assistance in identifying programs that offer training  
 451 and education needed to meet the requirements for licensure.

452 (2) Notwithstanding any other provision of law, beginning  
 453 October 1, 2017, and annually thereafter, the department is  
 454 directed to prepare and submit a report to the Governor, the  
 455 President of the Senate, and the Speaker of the House of  
 456 Representatives. In addition to any other information that the  
 457 Legislature may require, the report must include statistics and  
 458 relevant information which detail:

459 (a) The number of applicants who identified themselves as  
 460 veterans.

461 (b) The number of veterans whose application for a license  
 462 was approved.

463 (c) The number of veterans whose application for a license  
 464 was denied, including the reasons for denial.

465 (d) Data on the application processing times for veterans.

466 (e) The department's efforts to assist veterans in  
 467 identifying programs that offer training and education needed to  
 468 meet the requirements for licensure.

469 (f) The department's identification of the most common  
 470 overlaps and gaps between the requirements for licensure and the  
 471 military training and education received and completed by the  
 472 veterans.

473 (g) Recommendations on ways to improve the department's  
 474 ability to meet the needs of veterans which would effectively  
 475 address the challenges that veterans face when separating from  
 476 military service and seeking a license for a profession or  
 477 occupation regulated by the department pursuant to chapter 493.

478 Section 8. (1) The Department of Highway Safety and Motor  
 479 Vehicles and the Department of Military Affairs shall jointly  
 480 conduct a pilot program to provide onsite commercial motor  
 481 vehicle driver license testing opportunities to qualified  
 482 members of the Florida National Guard pursuant to the Department  
 483 of Highway Safety and Motor Vehicles commercial motor vehicle  
 484 driver license skills test waiver under s. 322.12, Florida  
 485 Statutes. Testing must be held at a Florida National Guard  
 486 Armory, a Florida United States Armed Forces Reserve Center, or  
 487 the Camp Blanding Joint Training Center. The pilot program shall  
 488 be accomplished using existing funds appropriated to each  
 489 department.

490 (2) By June 30, 2017, the Department of Highway Safety and  
 491 Motor Vehicles and the Department of Military Affairs shall  
 492 jointly submit a report on the results of the pilot program to  
 493 the President of the Senate and the Speaker of the House of  
 494 Representatives.

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495 |        (3) This section is repealed October 1, 2017, and shall  
496 | not be codified in the Florida Statutes.

497 |        Section 9. This act shall take effect July 1, 2016.