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# **Government Operations & Technology Appropriations Subcommittee**

**Tuesday, February 11, 2020  
1:30 - 3:30 p.m.  
Mashburn Hall (306 HOB)**



# The Florida House of Representatives

## Appropriations Committee

### Government Operations & Technology Appropriations Subcommittee

Jose R. Oliva  
Speaker

Jayer Williamson  
Chair

#### AGENDA

Tuesday, February 11, 2020

1:30 – 3:30 p.m.

Mashburn Hall (306 HOB)

- I. Call to Order
- II. Opening Remarks by the Chair
- III. Consideration of the following bill(s):
  - HB 771 Motor Vehicle Insurance by Grall
  - HB 991 Lottery Games by Robinson
  - HB 1047 Construction Materials Mining Activities by Avila
  - HB 1161 Local Licensing by Plakon
  - CS/HB 1391 Technology Innovation by Insurance & Banking Subcommittee, Grant, J.
  - CS/HB 1395 Fees/Financial Technology Sandbox by Insurance & Banking Subcommittee, Sirois
- IV. Closing Remarks/Meeting Adjourned



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 771 Motor Vehicle Insurance  
**SPONSOR(S):** Grall  
**TIED BILLS:** IDEN./SIM. BILLS: SB 378

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 1 N	Lloyd	Cooper
2) Government Operations & Technology Appropriations Subcommittee		Helpling	
3) Commerce Committee			

### SUMMARY ANALYSIS

The Florida Motor Vehicle No-Fault Law (also known as personal injury protection or PIP) requires owners and operators to obtain and maintain PIP, which provides \$10,000 in medical, disability, and funeral expenses, without regard to fault, subject to a limit of \$2,500 for non-emergency medical care. In exchange for providing PIP coverage, vehicle owners and operators are immune from tort claims within the limits of the PIP law.

The owner is also required to obtain and maintain coverage of at least \$10,000 for property damage (PD). In response to an accident, they must also provide proof of bodily injury (BI) coverage. BI coverage requires the ability to respond for at least \$10,000 in damages due to the bodily injury or death of any one person and \$20,000 for bodily injury or death to two or more persons. An insurance policy or allowable form of self-insurance is acceptable proof of BI coverage.

The bill repeals PIP. By repealing PIP, the bill removes the limitation on tort liability provided under PIP. When drivers are at fault in an accident, they are fully liable for any damages they cause. Due to this change, the bill expands the scope of legal liabilities covered under an uninsured/underinsured motorist policy.

In place of PIP, BI coverage is required at the time of registration of a motor vehicle. It increases the minimum BI coverage limits to \$25,000 in damages due to the bodily injury or death of any one person and \$50,000 for bodily injury or death to two or more persons. The minimum PD coverage limit is not changed. The minimum security limits for self-insurance of BI and PD requirements are increased. The bill also increases minimum coverage limits applicable to garage liability policies and commercial motor vehicle coverage.

The bill requires insurers to offer medical payments coverage prior to issuing the policy, which the prospective insured may reject in writing. Coverage may be selected at \$5,000, \$10,000 or in amounts exceeding \$5,000. The insurer may offer deductibles from zero to \$500.

Motor vehicle policies issued on or after January 1, 2021, may not include PIP coverage. The bill provides for continued enforcement of suspensions, revocations, and anti-fraud measures for actions occurring under the PIP law.

The bill provides for the transition of motor vehicle insurance policies issued prior to January 1, 2021, from PIP requirements to BI requirements. In addition, insurers are required to provide their policyholders a notice describing the effect of the elimination of PIP and change to BI, by September 1, 2020. The notice is subject to approval by the Office of Insurance Regulation (OIR).

The bill provides that resident relatives must be included in coverage provided by motor vehicle liability policies. It also allows insurers to exclude named individuals from coverage. It also allows exclusion of coverage of motor vehicles that are not identified on the policy, if an individual insured by the policy has owned the vehicle, or the temporary vehicle was furnished for regular use, for more than 30 consecutive days.

An appropriation of \$83,651 is provided to OIR to implement changes made by the bill. The bill has an indeterminate negative fiscal impact on state revenues and expenditures and no fiscal impact on local government. The bill has indeterminate positive and negative impacts on the private sector.

The bill is effective January 1, 2020, except as otherwise expressly provided by the bill.

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

STORAGE NAME: h0771b.GOT.DOCX

DATE: 2/7/2020

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Financial Responsibility Law**

Florida's Financial Responsibility Law requires proof of ability to pay monetary damages for bodily injury (BI) and property damage (PD) liability arising out of a motor vehicle accident or serious traffic violation.<sup>1</sup> The owner or operator of a motor vehicle is not required to provide proof of BI coverage at the time of vehicle registration. Motorcycle owners also are not required to provide proof of BI coverage at the time of registration. Proof of such coverage is only required after an accident.<sup>2</sup> At that time, a driver proves financial responsibility by furnishing an active motor vehicle liability policy, a certificate showing a qualifying security deposit with the Department of Highway Safety and Motor Vehicles (DHSMV), or proof of qualifying self-insurance.<sup>3</sup>

The required minimum amounts of BI insurance coverages are \$10,000, in the event of bodily injury to, or death of, one person, and \$20,000, in the event of bodily injury to, or death of, two or more persons. The required minimum amount of PD insurance coverage is \$10,000, in the event of damage to property of others, or \$30,000 combined for both BI and PD coverage.<sup>4</sup> Some refer to these coverage amounts in a summary manner, i.e., \$10,000/\$20,000/\$10,000 or 10/20/10.

A driver's license and vehicle registration are subject to suspension for failure to comply with the PD coverage requirement.<sup>5</sup> One may obtain driver's license and registration reinstatement by obtaining a liability policy and by paying a fee to DHSMV.<sup>6</sup>

Financial responsibility requirements are common. All states have financial responsibility laws that require persons involved in auto accidents (or serious traffic infractions) to furnish proof of BI and PD liability insurance. The minimum coverage amounts vary among the states.

##### **Florida Motor Vehicle No-Fault Law**

Florida's Motor Vehicle No-Fault Law (No-Fault Law)<sup>7</sup> requires motorists to carry no-fault insurance known as personal injury protection (PIP) coverage. The purpose of PIP coverage under the No-Fault Law is to provide for medical, surgical, funeral, and disability insurance benefits without regard to who is responsible for a motor vehicle accident. In return for assuring payment of these benefits, the No-Fault Law provides limitations on the right to bring lawsuits arising from motor vehicle accidents. Florida motorists are required to carry \$10,000 of PIP coverage.<sup>8</sup> However, motorcycles are excluded from this requirement.

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<sup>1</sup> Ch. 324, F.S.

<sup>2</sup> Ss. 320.02 and 324.011, F.S.

<sup>3</sup> Ss. 324.031, 324.061, 324.161, and 324.171, F.S. Businesses that choose to self-insure the financial responsibility requirements must deposit \$30,000 per vehicle, up to a maximum of \$120,000, with the DHSMV and maintain excess insurance with limits of \$125,000/\$250,000/\$300,000. Individuals that choose to self-insure must deposit \$30,000 with the DHSMV. Individuals and businesses can also obtain a certificate of self-insurance to satisfy the financial responsibility requirements. Individuals must have an unencumbered net worth of \$40,000 and businesses must have either an unencumbered net worth of \$40,000 for the first vehicle and \$20,000 for each additional vehicle or a sufficient net worth determined by the DHSMV by rule. Currently, the applicable rule provides that \$40,000 for the first vehicle and an amount less than \$20,000 for each additional vehicle is sufficient if the applicant carries excess insurance in the amounts of \$25,000/\$50,000/\$100,000. The amount applicable to each additional vehicle is determined annually under a "Manual of Financial Responsibility Rates" (Revised 05-89) adopted by rule by the Office of Insurance Regulation. Rule 15A-3.011, F.A.C.

<sup>4</sup> S. 324.022, F.S.

<sup>5</sup> S. 324.0221(2), F.S. Failure to maintain PIP coverage results in suspension of the driver's license and vehicle registration.

<sup>6</sup> S. 324.0221(3), F.S.

<sup>7</sup> Ss. 627.730-627.7405, F.S.

<sup>8</sup> S. 627.7275, F.S. Under Florida's Financial Responsibility Law (ch. 324, F.S.), motorists must also provide proof of ability to pay monetary damages for Bodily Injury and Property Damage liability at the time of motor vehicle accidents or when serious traffic violations occur. The Financial Responsibility Law requires \$10,000, per person, and \$20,000, per incident, of Bodily Injury coverage, and \$10,000 of Property Damage liability coverage.

## PIP General Provisions

<i>Required Coverage</i>	All owners or registrants of motor vehicles with four or more wheels, except school buses, limos, and taxicabs, are required to carry PIP. <sup>9</sup>
<i>Individuals Covered</i>	The named insured, relatives living in the same household, persons operating the vehicle, passengers in the vehicle, and persons struck and injured while not occupying the vehicle.
<i>Tort Limitation</i>	Limited exemption from tort liability; injured persons may pursue certain tort claims as specified by the PIP law.
<i>Benefits</i>	\$10,000 in emergency medical and disability benefits (limited to \$2,500 in medical benefits for non-emergency medical conditions) and \$5,000 in death benefits. Coverage of 60 percent of lost income due to disability, not to exceed the \$10,000 overall benefit limitation.
<i>Timely Treatment</i>	Medical benefits are paid only if initial treatment is received within 14 days of the accident.
<i>Timely Payment</i>	Payments are overdue if not paid within 30 days of insurer receipt of written notice.
<i>Medical Reimbursement</i>	80 percent of reasonable medical expenses paid to eligible medical providers. <sup>10</sup>
<i>Excluded Treatment</i>	Massage and acupuncture are not PIP medical benefits. Services, supplies, or care that is not reimbursable under Medicare or workers' compensation is not required to be reimbursed by the insurer.
<i>Attorney Fees</i>	Prevailing insureds and beneficiaries may receive a reasonable attorney fees award.

## PIP in Other States

Over the last couple of decades, 24 jurisdictions have repealed their No-Fault laws or made them non-compulsory.<sup>11</sup> Only 17 jurisdictions have compulsory PIP laws. Of those with compulsory PIP laws, only nine have No-Fault laws. Five jurisdictions, including some that do not have compulsory PIP laws, give the insured the option to choose No-Fault protections.

<b>Jurisdiction</b>	<b>Compulsory PIP</b>	<b>No-Fault</b>
Arizona	Yes	No
Delaware	Yes	No
District of Columbia	No	Optional
Florida	Yes	Yes
Hawaii	Yes	Yes
Kansas	Yes	Yes
Kentucky	No	Optional
Maryland	Yes	No
Massachusetts	Yes	Yes
Michigan	Yes	Yes
Minnesota	Yes	Yes

<sup>9</sup> This includes non-resident owners who keep a vehicle in Florida for more than 90 days during the previous 365 day. S. 627.733(2), F.S.

<sup>10</sup> Insurers may limit reimbursements to a fee schedule tied to the Medicare allowed amount. S. 627.736(5)(a)1., F.S. For many services, 80 percent of 200 percent of the Medicare allowed amount is the standard reimbursement under this fee schedule.

<sup>11</sup> National Association of Insurance Commissioners, *Final Auto Study Group Report* (Nov. 18, 2014) and Insurance Information Institute, *Compulsory Auto/Uninsured Motorists* (Sept. 2017) <http://www.iii.org/issue-update/compulsory-auto-uninsured-motorists> (last visited Feb. 1, 2020).

New Jersey	Yes	Optional
New York	Yes	Yes
North Dakota	Yes	Yes
Oregon	Yes	No
Pennsylvania	No	Optional
Texas	Yes	Optional
Utah	Yes	Yes
Virgin Islands	Yes	No
Washington	Yes	No

## Recent Legislative History

The Legislature revised the PIP law multiple times following a Statewide Grand Jury in 2000 that found rampant fraud in the PIP system. The Legislature enacted PIP reform legislation in 2001 and 2003. The 2003 legislation included a sunset of the PIP law on October 1, 2007. A Governor's veto of a bill extending the sunset of the law resulted in the law expiring in 2007. Following a 2007 Special Session, the PIP law was revived effective January 1, 2008. The Legislature again revised the PIP law in 2012.

### *PIP Reform*

The reforms enacted between 2001 and 2012 included:

- Establishing requirements for and limiting access to motor vehicle crash reports;
- Providing limitations on medical services, reimbursement, and eligible providers;
- Requiring provider licensing;
- Requiring pre-suit demand letters;
- Increasing criminal penalties;
- Defining certain activities by claims handlers as unfair and deceptive trade practices;
- Establishing limitations on benefits for emergency and non-emergency medical conditions; and
- Creating limitations on attorney's fees.

The 2012 reform required insurers to make rate filings by October 1, 2012, and January 1, 2014, that provided a minimum 10 percent and 25 percent decrease in PIP premiums, respectively. However, this reform permitted insurers to file and the Office of Insurance Regulation (OIR) to approve smaller decreases or increases, if appropriately justified. This resulted in an estimated average statewide rate decrease in PIP premiums of 13.2 percent, as of January 22, 2014. This legislation also required OIR to issue a PIP data call and report the results. OIR reported the data call results on January 1, 2015 (see Recent Reports by OIR, below).

### *PIP Repeal Proposals*

The PIP law has been the subject of multiple repeal proposals over the last several years. The House considered bills in 2013, 2014, 2015, and 2017 that would have repealed PIP and required increased BI coverage under the Financial Responsibility Law.<sup>12</sup> A 2016 bill would have repealed PIP, effective January 1, 2019, but would have maintained current BI and PD requirements. Except for 2017, the House bills died in the Insurance & Banking Subcommittee. CS/HB 1063 (2017) passed the House on April 19, 2017, and died in the Senate Appropriations Subcommittee on Health and Human Services.

### *Recent Changes*

As part of a pair of broader insurance related bills, the Legislature amended the PIP law in 2015 and 2016. HB 165 (2015) clarified the application of the PIP medical reimbursement fee schedule. HB 165 (2015) and HB 659 (2016) each created an additional exemption from a licensure requirement under the PIP law that permits reimbursement of certain health care clinics for PIP related medical services.

## Recent Reports by OIR

### *PIP Data Call*

The 2012 reform, HB 119, required OIR to perform a comprehensive data call regarding PIP. Thirty-five insurers representing 83.5 percent of the market participated in the data call. This included the top 25 insurers, by market share. The report did not rely on information from several insurers due to data quality issues. OIR published their analysis of the data call on January 1, 2015. The report provided detailed information on seven of the eight required elements mentioned in the bill. The bill required the report to address, at a minimum, the following points:

1. Quantity of personal injury protection claims.
2. Type or nature of claimants.
3. Amount and type of personal injury protection benefits paid and expenses incurred.
4. Type and quantity of, and charges for, medical benefits.
5. Attorney fees related to bringing and defending actions for benefits.
6. Direct earned premiums for personal injury protection coverage, pure loss ratios, pure premiums, and other information related to premiums and losses.
7. Licensed drivers and accidents.
8. Fraud and enforcement.

The published report did not include detail or analysis regarding item 5. However, the report included limited information about insurer costs related to defense of claims, which includes attorney fees. OIR documented and analyzed all other items in detail.

While OIR did not provide a summary of their findings in the body of the report, they summarized their findings in a press release dated January 5, 2015,<sup>13</sup> as follows:

The findings showed a general decrease in the per claim costs and the overall number of claims (frequency and severity) for PIP since the implementation of HB 119 on January 1, 2013. The regional analysis concludes that South Florida and the Tampa/St. Petersburg regions experienced the most significant decreases in Florida. However, the data also exposed that other coverages, such as Bodily Injury (BI) and Uninsured Motorists (UM), experienced increases in both frequency and severity when some benefits covered under PIP moved to these coverages. These trends are expected to continue over the next year.

Prior to 2012 and the passage of this law, the pervasive nature of PIP fraud and staged auto accidents created an unsustainable cost trajectory of PIP claims. The Division of Insurance Fraud (DIF), within the Department of Financial Services (DFS), is responsible for investigating this type of fraud. According to the DIF, there has been a substantial decline in PIP fraud since the implementation of HB 119 with a projected 16% decrease during Fiscal Year 2013 – 2014 from Fiscal Year 2011 – 2012.

The Office also compiled a summary of the rate filings effective on or after January 1, 2011 for the top 25 insurers representing 80.9% of the total personal auto market in Florida. These filings were segregated into two sets of data: Pre-HB 119 and Post-HB 119 (to include all filings submitted since, and including, the first required HB 119 filing due on October 1, 2012). The average statewide approved rate changes were:

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<sup>13</sup> FLORIDA OFFICE OF INSURANCE REGULATION, *News Releases, Office Releases Personal Injury Protection (PIP) Insurance Data Call Report*, <http://www.flor.com/PressReleases/viewmediarelease.aspx?id=2094> (last visited Feb. 1, 2020).

	<b>Pre-HB 119</b>	<b>HB 119</b>
PIP	+46.3%	-13.6%
Liability (incl. PIP)	+20.9%	-0.5%
Overall (incl. Comp. & Coll.)	+12.9%	-0.1%

The report noted many insurers had residual rate need due to deteriorating PIP experience prior to the implementation of the bill that were used to offset some of the expected savings from HB 119. For an individual policyholder, the rate changes may vary considerably from the statewide averages listed above, taking into account other factors, such as differences by insurer, by territory, etc.

Overall, there was limited data available to determine the true impact of HB 119; however, the data call analysis reveals the law has had a major impact on the personal auto market and changed the trajectory of trends being seen prior to its enactment.

The report also documented an increase in the frequency of automobile crashes in Florida during 2013 and 2014. Data from the DHSMV shows that this trend continued through 2015. OIR reported that crash frequency per 100 licensed drivers in Florida had dropped by 13.7 percent from 2004 to 2011. In 2011, there were 1.48 crashes per 100 licensed drivers. For 2015, crash frequency increased over 61 percent to 2.40 crashes per 100 licensed drivers.

#### *OIR Cost Projection on Certain PIP Reform Proposals*

In June 2016, OIR contracted with Pinnacle Actuarial Resources (Pinnacle) for actuarial services to produce a "Review of PIP Legislation."<sup>14</sup> The objective of the review was to "provide a draft and final report documenting [a] comprehensive study on the effect of HB 119 and the potential impact to Floridians if the personal injury protection coverage requirements were repealed and replaced with varying levels of Bodily Injury coverage, or if the current requirements to purchase auto insurance were completely repealed." Pinnacle is the same vendor that produced the 2012 rate impact analysis that was required by HB 119 (2012).<sup>15</sup>

Pinnacle issued their report on September 13, 2016.<sup>16</sup> They found that:

- The study of HB 119 evaluated sixteen provisions of the bill and concluded that the HB 119 reforms produced an estimated aggregate savings since enactment in PIP claim costs of 17.5 percent and an estimated statewide average savings in PIP premiums of 15.1 percent.
- If no-fault insurance were repealed in Florida, there could be an estimated overall reduction in premiums of 9.6 percent on the *liability coverage package* or \$81 per car annually for the average driver. For *all coverages combined*, the estimated premium decrease is 6.7 percent.
- Finally, an analysis of premium impacts if the requirement to purchase auto insurance was repealed in addition to the repeal of no-fault insurance found there could be an estimated additional reduction in the PIP repeal savings of 0.2 percent to 0.4 percent.

Pinnacle also provided estimates that considered the outcome if the consumer purchased Medical Payments (Med Pay) coverage, at either \$2,500 or \$5,000 coverage limits, and if the BI limit was increased by law to \$25K/\$50K. The following table illustrates the estimated savings in each scenario.

<sup>14</sup> DFS OIR RFP 15/16-15, *Actuarial Consulting Services for Review of PIP Legislation*.

<sup>15</sup> In 2012, Pinnacle Actuarial Resources, Inc., was retained by OIR to conduct an independent actuarial study to calculate the savings to be expected because of HB 119 (2012). S. 15, HB 119 (2012). OIR published the report on August 21, 2012. FLORIDA OFFICE OF INSURANCE REGULATION, *Press Release*, <http://www.florir.com/PressReleases/viewmediarelease.aspx?id=1956> (last visited Feb. 1, 2020).

<sup>16</sup> Pinnacle Actuarial Resources, Inc., *Florida Office of Insurance Regulation: Review of Personal Injury Protection Legislation*, Sept. 13, 2016, available at <https://www.florir.com/siteDocuments/FLAIRReviewPIP20160913.pdf> (last visited Feb. 1, 2020).

Estimated Savings on Auto Insurance Premiums, by Scenario			
Situation	Coverage Type	Require BI at \$10K/\$20K	Require BI at \$25K/\$50K
PIP repeal	Liabilities, only <sup>17</sup>	9.6%	8.1%
	Overall	6.7%	5.6%
PIP repeal and \$2,500 Med Pay	Liabilities, only	4.9%	3.4%
	Overall	3.4%	2.4%
PIP repeal and \$5,000 Med Pay	Liabilities, only	1.0%	-0.5%
	Overall	0.7%	-0.3%

### Overview of Colorado PIP Insurance Reform

Colorado had a no-fault auto insurance law from 1974 to 2003. In reaction to increasing costs of auto insurance, including a 38 percent increase in auto premiums from 1992 to 2002, Colorado repealed their no-fault law, effective July 2003. Colorado now handles crash liabilities through the tort system. Under the tort system, the person at fault in an auto crash is responsible for paying the losses of the victim and the victim enforces their rights in civil court.

Prior to the change, Colorado had the ninth highest premium per insured auto in the nation. For 2014 (the most current year available), Colorado had the 21<sup>st</sup> highest auto premium in the nation. According to the Colorado Legislative Council Staff, auto premiums in the state as of January 2007 had decreased ten to 14 percent following the elimination of the no-fault system.<sup>18</sup>

In comparison, according to data from the National Association of Insurance Commissioners and reported by the Insurance Information Institute, from 2006 through 2014, Florida has consistently ranked fifth in the nation for highest average auto insurance cost per vehicle. Florida ranked as low as sixth in 2009 and 2014 and as high as fourth in 2008 and 2012, with the remaining years being ranked fifth.<sup>19</sup>

	Colorado			Florida		
	Average Auto Premium Cost	National Rank	Percent Change over 2002 Cost	Average Auto Premium Cost	National Rank	Percent Change over 2003 Cost
2002	\$921.00	9		n/a	n/a	
2003	\$923.00	12		\$1,018.00	5	
2004	\$850.00	18	-7.7%	\$1,062.00	5	4.3%
2005	\$829.00	21	-10.0%	\$1,064.00	6	4.5%
2006	\$785.00	23	-14.8%	\$1,069.00	5	5.0%
2007	\$738.00	24	-19.9%	\$1,043.00	5	2.5%
2008	\$728.67	26	-20.9%	\$1,054.89	5	3.6%
2009	\$741.28	22	-19.5%	\$1,006.20	6	-1.2%
2010	\$730.42	25	-20.7%	\$1,037.36	5	1.9%
2011	\$723.61	27	-21.4%	\$1,090.58	5	7.1%
2012	\$737.95	25	-19.9%	\$1,128.53	4	10.9%
2013	\$777.95	23	-15.5%	\$1,143.73	5	12.4%
2014	\$821.19	21	-10.8%	\$1,140.84	6	12.1%

<sup>17</sup> "Liabilities, only" includes Bodily Injury, Personal Injury Protection, Uninsured Motorist, and Property Damage coverages.

<sup>18</sup> Colorado Legislative Council, *Issue Brief Number 07-01, Automobile Insurance in Colorado*, Jan. 2007.

<sup>19</sup> INSURANCE INFORMATION INSTITUTE, *Auto Insurance, Costs and Expenditures*, <http://www.iii.org/table-archive/21247> (last visited Feb. 1, 2020).

*Private Passenger Auto Insurance Requirement Comparison*

	Colorado	Florida
No-fault/PIP	None	\$10,000 medical, disability and funeral Non-emergency medical limited to \$2,500 Mandatory for vehicle registration
Bodily Injury or Death	\$25,000 per person, \$50,000 per accident Mandatory for vehicle registration	\$10,000 per person, \$20,000 per accident, or \$30,000 single limit Mandatory, may be secured post-registration
Property Damage	\$15,000 Mandatory for vehicle registration	\$10,000 Mandatory for vehicle registration
Uninsured/Under-insured Motorist	Mandatory offer at BI/PD limits, written rejection required	Mandatory coverage at BI limits, if BI purchased; written rejection required
Medical Payment	\$5,000 mandatory offer, written rejection required	Optional

**Impacts of the Colorado Reform**

In February 2008, the Office of the Governor of Colorado published a report that studied the impacts of the repeal of the no-fault system on auto insurance, health insurance, the trauma system, Medicaid and Colorado Indigent Care Program, and consumers.<sup>20</sup> The report’s findings include the following:

*AUTO INSURANCE*

- For the eight largest auto insurers in Colorado by market share, average auto insurance premiums declined 35 percent from July 2003 to December 2007.
- The average premium decrease attributable to the elimination of PIP was 22 percent immediately following the repeal of no-fault.<sup>21</sup>
- Colorado’s national rank for average annual auto insurance premium per vehicle fell following the repeal.
- Premiums for each of the non-PIP auto coverage types increased, except comprehensive coverage (no baseline data was available for medical payment coverage, so the effect was unknown).
- Ninety-nine percent of Colorado auto insurers were offering medical payment coverage post-reform and 31 percent of consumers were purchasing this coverage.

*HEALTH INSURANCE*

- Based on the responses of health insurers (totaling 1.57 million policyholders) to a 2003 survey by the Colorado Division of Insurance, health insurance premiums increased by an estimated 1.6 percent.

*TRAUMA SYSTEM*

*Hospitals*

- The report could not quantify the impact on acute care hospital reimbursements for emergency and outpatient services.
- Comparing payments for 2002 to those for 2006 for inpatient care of auto accident patients at acute care hospitals, the percentage of payments from private insurance, which includes both auto and health insurance, decreased by about one third (75.4 percent for 2002 and 49.3 percent for 2006).

<sup>20</sup> BBC Research & Consulting, *Auto Insurance/Trauma System Study*, 5, Feb. 2008.

<sup>21</sup> Information in *Issue Brief Number 07-01* and the *Auto Insurance/Trauma System Study* are seemingly at odds regarding the change in auto premiums post-reform. The reason for the difference may be that *Issue Brief Number 07-01* is referencing the change in average premiums for Colorado overall at January 2007 and the *Auto Insurance/Trauma System Study* is only focused on the eight largest auto insurers in Colorado at December 2007.

The proportion of payment by all other payer types increased. The greatest increase was in self-payment (13.4 percent in 2002 and 27.2 percent in 2006). Self-payment may also include self-filing of insurance. Medicare showed the next highest increase (2.9 percent in 2002 and 7.7 percent in 2006).

- A similar pattern was seen in all inpatient cases; however, the amount of the decrease in the proportion of private insurance payments was much less (51.1 percent for 2002 and 46.6 percent for 2006).
- The reimbursement rate (percent of charge reimbursed) for acute care hospital inpatient auto crash patients fell from 60 percent to 36 percent for hospitals that responded to a survey. The report asserted the cause of the reduction to be more patients without insurance and, for patients with insurance, more payments based on negotiated rates (non-PIP insurers allegedly rely more on negotiated rates).

### *Emergency Medical First Responders*

- Based on a small sample of first responders, i.e., those that could provide detailed billing and reimbursement information, non-reimbursed charges increased 37 percent for 2006 over 2002. Governmental first responders indicated that they made up deficits related to lower patient care/transfer reimbursements from non-user sources such as taxes and general fund transfers.
- The average number of days to collect first responder payment on auto crash related cases increased from 74 days in 2002 to 144 days in 2006.

### *MEDICAID AND COLORADO INDIGENT CARE PROGRAM*

- Medicaid – the Medicaid program’s exposure to auto crash claims increased, but the report could not quantify the cost.
- Colorado Indigent Care Program – while exposure was increased, caps on the federal and state portions of the program’s funding limited increases in expenditures. This increased unreimbursed provider charges.

### **Effect of the Bill**

Effective January 1, 2021, the bill repeals portions of the Florida Motor Vehicle No-Fault Law (PIP). However, it provides for continued enforcement of suspensions,<sup>22</sup> revocations, and anti-fraud measures for actions occurring under the No-Fault Law.

### *Changes to Financial Responsibility*

Beginning January 1, 2021, proof of compliance with the Financial Responsibility Law (BI coverage) is required at the time of registration of a motor vehicle,<sup>23</sup> instead of post-registration or at the time of an accident as is currently required. It increases the minimum BI coverage limits from \$10,000 per person and \$20,000 per incident to \$25,000 per person and \$50,000 per incident. The minimum PD coverage limit is not changed.<sup>24</sup> This results in required 25/50/10 coverage in most instances.

The bill increases minimum security limits for self-insurance of financial responsibility requirements in the following ways:

- Certificate of deposit for individuals and businesses:<sup>25</sup>
  - increased from \$30,000 per vehicle (max. \$120,000) to \$60,000 per vehicle (max. \$240,000). In addition, such person must maintain motor vehicle liability policy in excess of the certificate of

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<sup>22</sup> The bill also expands DHSMV’s authority to suspend the registrations and licenses of drivers who fail to maintain BI when required under ss. 324.023 (DUI conviction), 324.032 (for-hire transportation), 627.7415 (commercial motor vehicles), and 627.742, F.S. (non-public sector buses), and who fail to carry proof of BI when operating a motor vehicle.

<sup>23</sup> Proof of compliance with the Financial Responsibility Law does not change for motorcycles.

<sup>24</sup> The allowed combined coverage limit of \$30,000 for property damage and bodily injury is increased to \$60,000.

<sup>25</sup> Proof of the certificate of deposit maintained in a financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration must be submitted annually to DHSMV.

deposit providing bodily injury coverage of \$125,000, per person, \$250,000, per accident, and \$50,000 for property damage, or \$300,000, combined property damage and bodily injury.

- Certificate of self-insurance – minimum unencumbered net worth increases from:
  - For individuals – \$40,000 to \$100,000, and
  - For businesses – \$40,000 for the first vehicle and \$20,000 for each additional vehicle to \$100,000 and \$50,000, respectively.<sup>26</sup>

Garage Liability Insurance – The bill increases minimum security limits for garage liability insurance from \$25,000 combined single limit for bodily injury and property damage to \$60,000 combined.

For-Hire Passenger Transportation Vehicle – no change; current 125/250/50.

Commercial Motor Vehicles – minimum combined bodily injury and property damage coverage:

- For vehicles between 26,000 pounds and 35,000 pounds – increases from \$50,000 per occurrence to \$60,000 per occurrence,
- For vehicles 35,000 pounds or more but less than 44,000 pounds – no change (\$120,000 per occurrence), and
- For vehicles between 44,000 pounds or more – no change (\$300,000 per occurrence).

Non-public Sector Buses – no change; current 100/300/50 or combined 300.

Transportation Network Companies – no change; current 50/100/25 when logged on, but no rider, and \$1 million when connected to a rider.

### *Transition of Coverages*

The bill provides for the transition of motor vehicle insurance policies into compliance with the changes made by the bill if the policies were issued prior to January 1, 2021, but are in force on that date. Those issued on or after January 1, 2021, are prohibited from including PIP coverage. In force policies that were issued in compliance with law at the time of issuance are deemed to meet the new requirements until renewed, nonrenewed, or canceled. Insurers are required to allow policyholders with PIP coverage to obtain BI coverage that complies with the changes made by the bill without charge other than changes in premium due. Payment of the change in premium and refunds, if either result from the change in coverage, depending upon the actual coverages on the policy, are required.

### *Notice Requirements*

Insurers are required to provide a notice, by September 1, 2020, informing motor vehicle policyholders that effective January 1, 2021:

- The Florida Motor Vehicle No-Fault Law (PIP) is repealed January 1, 2021,
- The policyholder is no longer required to carry PIP coverage,
- PIP is no longer available for purchase,
- New or renewal coverage will not include PIP,
- New BI requirements begin on January 1, 2021, which are 25/50/10,
- That insurers must offer medical payments coverage with selectable limits of \$5,000 and \$10,000, or at limits greater than \$5,000; optional deductible of \$500; death benefit of \$5,000; and describe the nature of medical payments coverage,
- A policyholder may obtain uninsured/underinsured motorist coverage to protect themselves and their insureds from damages caused by an uninsured/underinsured driver,
- Policies that comply with the requirements of law at the time of issue are deemed to meet the new requirements, until the policy is renewed, nonrenewed, or canceled,

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<sup>26</sup> In the alternative, businesses may qualify for self-insurance by maintaining a sufficient net worth determined annually by DHSMV by rule. S. 324.171, F.S.

- They may change their policy to comply with the new requirements, and
- They may contact the name and telephone number provided in the notice with questions.

The notice is also required to state that PIP provides medical payments coverage for the policyholder, passengers, and resident relatives,<sup>27</sup> while BI protects the insured against loss if they are at fault in an accident and are legally responsible for bodily injuries or deaths of others. The notice is subject to approval by OIR.

### *Optional Medical Payments Coverage*

The bill requires motor vehicle insurers to offer medical payments coverage before issuing an initial policy. Unless the insured rejects medical payments coverage in writing, medical payments coverage is deemed included with \$10,000 in coverage.

The insurer is required to offer:

- A \$5,000 coverage limit,
- A \$10,000 coverage limit, or
- Coverage limits exceeding \$5,000.

The insurer is allowed to offer medical payments coverage deductibles from zero to \$500. The insurer must notify the policyholder annually of the availability of medical payments coverage.

The bill establishes insurer reserve requirements tied to medical payments coverage claims. Medical payments coverage benefits are not a lien on personal recoveries associated with the claim event, nor does the insurer have a right to sue a recipient of medical coverage payments unless the payments were the result of fraud. The insurer may claim subrogation rights against persons that are not insured on the policy, but the right is subordinate to the insured's own right against such person. The insurer may recover from an insured who receives full payment for damages that impairs the insurer's subrogation rights in specified circumstances. Death benefits may not be subrogated.

### *Named Driver Exclusion*

The bill provides that resident relatives must be included in coverage provided by motor vehicle liability policies, but authorizes insurers and policyholders to exclude named drivers, including a resident relative, from a private passenger motor vehicle insurance policy. An individual is not covered for damages that occur while operating a motor vehicle that is insured under a policy that excludes the individual by name. The bill prohibits exclusion for periods when the excluded named driver is not operating a motor vehicle covered under the policy (e.g., when they are a passenger in the vehicle), if the exclusion is unfairly discriminatory by law, as determined by the OIR, or if the exclusion is inconsistent with the underwriting guidelines filed by the insurer with OIR. The exclusion of a named driver is contingent upon the written consent of a policyholder. The bill requires insurers to list excluded named drivers on the policy's declarations page or on a policy endorsement. Individuals who are named as excluded drivers on a particular policy may secure their insurance obligations under another policy.

### *Newly Acquired and Temporary Substitute Motor Vehicles*

The bill allows insurers to exclude coverage of motor vehicles not named on a policy if the vehicle does not qualify as a "newly acquired vehicle"<sup>28</sup> or "temporary substitute"<sup>29</sup> vehicle and was owned by the insured or given to them for their use for more than 30 days prior to the claim event.

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<sup>27</sup> A "resident relative" is defined as "a person related to a named insured by any degree by blood, marriage, or adoption, including a ward or foster child, who usually makes her or his home in the same family unit as the named insured, whether or not he or she is temporarily living elsewhere."

<sup>28</sup> "Newly acquired vehicle" means a vehicle owned by a named insured or resident relative of the named insured which was acquired within 30 days before an accident.

## *Rate Filings*

Initial insurer rate filings for motor vehicle liability submitted to OIR on or after January 1, 2021, are required to be based on the new requirements and may only be approved through the file and use approval process.

## *Tort Liability*

By repealing PIP, the bill removes the limitation on tort liability provided under PIP. When drivers are at fault in an accident, they are fully liable for any damages they cause. Due to this change, the bill removes the conditional exclusion<sup>30</sup> of tort damages for pain, suffering, mental anguish, and inconvenience. Beginning January 1, 2021, the bill makes uninsured motorist insurers subject to tort damages for pain, suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, and the loss of capacity for the enjoyment of life experienced in the past and to be experienced in the future.

## *Appropriation*

The bill appropriates \$83,651 from the Insurance Regulatory Trust Fund to OIR to implement changes made by the bill.

## B. SECTION DIRECTORY:

- Section 1:** Repeals ss. 627.730, 627.731, 627.7311, 627.732, 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403, and 627.7405, F.S., relating to Florida Motor Vehicle No-Fault Law.
- Section 2:** Repeals s. 627.7407, F.S., relating to application of the Florida Motor Vehicle No-Fault Law.
- Section 3:** Amends s. 316.646, F.S., relating to security required; proof of security and display thereof.
- Section 4:** Amends s. 318.18, F.S., relating to amount of penalties.
- Section 5:** Amends s. 320.02, F.S., relating to registration required; application for registration; forms.
- Section 6:** Amends s. 320.0609, F.S., relating to transfer and exchange of registration license plates; transfer fee.
- Section 7:** Amends s. 320.27, F.S., relating to motor vehicle dealers.
- Section 8:** Amends s. 320.771, F.S., relating to license required of recreational vehicle dealers.
- Section 9:** Amends s. 322.251, F.S., relating to notice of cancellation, suspension, revocation, or disqualification of license.
- Section 10:** Amends s. 322.34, F.S., relating to driving while license suspended, revoked, canceled, or disqualified.
- Section 11:** Amends s. 324.011, F.S., relating to purpose of chapter.
- Section 12:** Amends s. 324.021, F.S., relating to definitions; minimum insurance required.
- Section 13:** Amends s. 324.022, F.S., relating to financial responsibility for property damage.
- Section 14:** Amends s. 324.0221, F.S., relating to reports by insurers to the department; suspension of driver license and vehicle registrations; reinstatement.
- Section 15:** Creates s. 324.0222, F.S., relating to application of suspensions for failure to maintain security; reinstatement.

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<sup>29</sup> "Temporary substitute vehicle" means any motor vehicle as defined in s. 320.01(1) which is not owned by the named insured and which is temporarily used with the permission of the owner as a substitute for the owned motor vehicle designated on the policy when the owned vehicle is withdrawn from normal use because of breakdown, repair, servicing, loss, or destruction.

<sup>30</sup> An uninsured motorist coverage insurer is liable for tort damages for pain, suffering, mental anguish, and inconvenience if the damages exceed the "verbal threshold" provided in s. 627.737(2)(a)-(d), F.S. The verbal threshold allows a plaintiff to recover such damages if the injury or disease consists in whole or in part of:

- Significant and permanent loss of an important bodily function.
- Permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement.
- Significant and permanent scarring or disfigurement.
- Death.

- Section 16:** Amends s. 324.023, F.S., relating to financial responsibility for bodily injury or death.
- Section 17:** Amends s. 324.031, F.S., relating to manner of proving financial responsibility.
- Section 18:** Amends s. 324.032, F.S., relating to manner of proving financial responsibility; for-hire passenger transportation vehicles.
- Section 19:** Amends s. 324.051, F.S., relating to reports of crashes; suspensions of licenses and registrations.
- Section 20:** Amends s. 324.071, F.S., relating to reinstatement; renewal of license; reinstatement fee.
- Section 21:** Amends s. 324.091, F.S., relating to notice to department; notice to insurer.
- Section 22:** Amends s. 324.151, F.S., relating to motor vehicle liability policies; required provisions.
- Section 23:** Amends s. 324.161, F.S., relating to proof of financial responsibility; deposit.
- Section 24:** Amends s. 324.171, F.S., relating to self-insurer.
- Section 25:** Amends s. 324.251, F.S., relating to short title.
- Section 26:** Amends s. 400.9905, F.S., relating to definitions.
- Section 27:** Amends s. 400.991, F.S., relating to license requirements; background screenings; prohibitions.
- Section 28:** Amends s. 400.9935, F.S., relating to clinic responsibilities.
- Section 29:** Amends s. 409.901, F.S., relating to definitions.
- Section 30:** Amends s. 409.910, F.S., relating to responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.
- Section 31:** Amends s. 456.057, F.S., relating to ownership and control of patient records; report or copies of records to be furnished; disclosure of information.
- Section 32:** Amends s. 456.072, F.S., grounds for discipline; penalties; enforcement.
- Section 33:** Amends s. 626.9541, F.S., relating to unfair methods of competition and unfair or deceptive acts or practices defined.
- Section 34:** Amends s. 626.989, F.S., relating to investigation by department or Division of Investigative and Forensic Services; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.
- Section 35:** Amends s. 627.06501, F.S., relating to insurance discounts for certain persons completing driver improvement course.
- Section 36:** Amends s. 627.0651, F.S., relating to making and use of rates for motor vehicle insurance.
- Section 37:** Amends s. 627.0652, F.S., relating to insurance discounts for certain persons completing safety course.
- Section 38:** Amends s. 627.0653, F.S., relating to insurance discounts for specified motor vehicle equipment.
- Section 39:** Amends s. 627.4132, F.S., relating to stacking of coverages prohibited.
- Section 40:** Amends s. 627.7263, F.S., relating to rental and leasing driver's insurance to be primary; exception.
- Section 41:** Creates s. 627.7265, F.S., relating to motor vehicle insurance; medical payments coverage.
- Section 42:** Amends s. 627.727, F.S., relating to motor vehicle insurance; uninsured and underinsured vehicle coverage; insolvent insurer protection.
- Section 43:** Amends s. 627.7275, F.S., relating to motor vehicle liability.
- Section 44:** Creates s. 627.7278, F.S., relating to applicability and construction; notice to policyholders.
- Section 45:** Amends s. 627.728, F.S., relating to cancellations; nonrenewals.
- Section 46:** Amends s. 627.7295, F.S., relating to motor vehicle insurance contracts.
- Section 47:** Amends s. 627.7415, F.S., relating to commercial motor vehicles; additional liability insurance coverage.
- Section 48:** Creates s. 627.747, F.S., relating to named driver exclusion.
- Section 49:** Effective upon becoming law, amends s. 627.748, F.S., relating to transportation network companies.
- Section 50:** Amends s. 627.749, F.S., relating to autonomous vehicles; insurance requirements.
- Section 51:** Amends s. 627.8405, F.S., relating to prohibited acts; financing companies.
- Section 52:** Amends s. 627.915, F.S., relating to insurer experience reporting.
- Section 53:** Amends s. 628.909, F.S., relating to applicability of other laws.
- Section 54:** Amends s. 705.184, F.S., relating to derelict or abandoned motor vehicles on the premises of public-use airports.

- Section 55:** Amends s. 713.78, F.S., relating to liens for recovering, towing, or storing vehicles and vessels.
- Section 56:** Amends s. 817.234, F.S., relating to false and fraudulent insurance claims.
- Section 57:** Makes an appropriation.
- Section 58:** Provides an effective date of January 1, 2021, except as otherwise expressly provided by the bill.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Indeterminate. Premium tax revenues may be affected to the extent that lost revenues associated with PIP premiums are offset by changes in revenues associated with expected increases in BI premiums.

#### 2. Expenditures:

Indeterminate. Hospitals may experience increased costs to the extent that medical reimbursements previously funded through PIP are shifted to secondary coverages or are lost through lack of secondary coverage. OIR is required to approve new forms and rates related to medical payments coverage and will receive filings to implement the coverage changes made by the bill. The bill appropriates \$83,651 to OIR for this purpose.

There will be impacts related to Florida Driver License Information System and MyDMV Portal and Mainframe within the Department of Highway Safety and Motor vehicles. There will be programming needed to modify the Financial Responsibility process to replace Personal Injury Protection with Bodily Injury, as specified in the bill.<sup>31</sup> However, these modifications can be completed utilizing existing department resources.<sup>32</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

Indeterminate. Local governments are likely to achieve savings on motor vehicle insurance, depending upon the amount of coverage secured. Local governments operating hospitals may experience increased costs to the extent that medical reimbursements previously funded through PIP are shifted to secondary coverages or are lost through lack of secondary coverage.

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

Indeterminate. Motor vehicle insurers are required to file new forms and rates and adjust their practices consistent with the changes made by the bill. Individuals and businesses must secure coverage that complies with these changes, as well.

In a September 2016 report from OIR, Pinnacle Actuarial Resources estimated the premium impacts of PIP repeal on consumers that carry a complete set of automobile insurance coverages.<sup>33</sup> Pinnacle also provided estimates that considered the outcome if the BI limit increased by law to 25/50. They estimated that consumers might save 8.1 percent in liabilities only<sup>34</sup> premiums and 5.6 percent in

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<sup>31</sup> Highway Safety and Motor Vehicles, Agency Analysis of 2020 SB 378, p. 6 (Oct. 30, 2019).

<sup>32</sup> Email from Susan Carey, Chief Financial Officer, Florida Department of Highway Safety and Motor Vehicles, RE: HB 771 Motor Vehicle Insurance Fiscal (Feb. 6, 2020).

<sup>33</sup> *Supra* note 16 at app. 3, p. 1 (p. 272).

<sup>34</sup> "Liabilities, only" includes Bodily Injury, Personal Injury Protection, Uninsured Motorist, and Property Damage coverages.

overall motor vehicle premiums of \$68.12 per car annually. Pinnacle also projected some negative impact on health care providers and health care insurance premiums due to the elimination of PIP.

**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 bill neither authorizes nor requires administrative rulemaking, but any rules that reference personal injury protection or restate bodily injury coverage requirements that are changed by the bill may require revision.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to motor vehicle insurance; repealing  
 3           ss. 627.730, 627.731, 627.7311, 627.732, 627.733,  
 4           627.734, 627.736, 627.737, 627.739, 627.7401,  
 5           627.7403, and 627.7405, F.S., which comprise the  
 6           Florida Motor Vehicle No-Fault Law; repealing s.  
 7           627.7407, F.S., relating to application of the Florida  
 8           Motor Vehicle No-Fault Law; amending s. 316.646, F.S.;  
 9           revising a requirement for proof of security on a  
 10          motor vehicle and the applicability of the  
 11          requirement; amending s. 318.18, F.S.; conforming a  
 12          provision to changes made by the act; amending s.  
 13          320.02, F.S.; revising the motor vehicle insurance  
 14          coverages that an applicant must show to register  
 15          certain vehicles with the Department of Highway Safety  
 16          and Motor Vehicles; conforming a provision to changes  
 17          made by the act; revising construction; amending s.  
 18          320.0609, F.S.; conforming a provision to changes made  
 19          by the act; amending s. 320.27, F.S.; defining the  
 20          term "garage liability insurance"; revising garage  
 21          liability insurance requirements for motor vehicle  
 22          dealer applicants; conforming a provision to changes  
 23          made by the act; amending s. 320.771, F.S.; revising  
 24          garage liability insurance requirements for  
 25          recreational vehicle dealer license applicants;

26 amending ss. 322.251 and 322.34, F.S.; conforming  
 27 provisions to changes made by the act; amending s.  
 28 324.011, F.S.; revising legislative intent; amending  
 29 s. 324.021, F.S.; revising definitions of the terms  
 30 "motor vehicle" and "proof of financial  
 31 responsibility"; revising minimum coverage  
 32 requirements for proof of financial responsibility for  
 33 specified motor vehicles; defining the term "for-hire  
 34 passenger transportation vehicle"; conforming  
 35 provisions to changes made by the act; amending s.  
 36 324.022, F.S.; revising minimum liability coverage  
 37 requirements for motor vehicle owners or operators;  
 38 revising authorized methods for meeting such  
 39 requirements; deleting a provision relating to an  
 40 insurer's duty to defend certain claims; revising the  
 41 vehicles that are excluded from the definition of the  
 42 term "motor vehicle"; providing security requirements  
 43 for certain excluded vehicles; conforming provisions  
 44 to changes made by the act; conforming cross-  
 45 references; amending s. 324.0221, F.S.; revising  
 46 coverages that subject a policy to certain insurer  
 47 reporting and notice requirements; conforming  
 48 provisions to changes made by the act; creating s.  
 49 324.0222, F.S.; providing that driver license or  
 50 registration suspensions for failure to maintain

51 required security which were in effect before a  
 52 specified date remain in full force and effect;  
 53 providing that such suspended licenses or  
 54 registrations may be reinstated as provided in a  
 55 specified section; amending s. 324.023, F.S.;  
 56 conforming cross-references; amending s. 324.031,  
 57 F.S.; specifying a method of proving financial  
 58 responsibility; revising the amount of a certificate  
 59 of deposit required to elect a certain method of proof  
 60 of financial responsibility; revising excess liability  
 61 coverage requirements for a person electing to use  
 62 such method; amending s. 324.032, F.S.; revising  
 63 financial responsibility requirements for owners or  
 64 lessees of for-hire passenger transportation vehicles;  
 65 amending ss. 324.051, 324.071, and 324.091, F.S.;  
 66 making technical changes; amending s. 324.151, F.S.;  
 67 revising requirements for motor vehicle liability  
 68 insurance policies relating to coverage, and exclusion  
 69 from coverage, for certain drivers and vehicles;  
 70 defining terms; conforming provisions to changes made  
 71 by the act; making technical changes; amending s.  
 72 324.161, F.S.; revising requirements for a certificate  
 73 of deposit that is required if a person elects a  
 74 certain method of proving financial responsibility;  
 75 amending s. 324.171, F.S.; revising the minimum net

76 | worth requirements to qualify certain persons as self-  
 77 | insurers; conforming provisions to changes made by the  
 78 | act; amending s. 324.251, F.S.; revising the short  
 79 | title and an effective date; amending s. 400.9905,  
 80 | F.S.; revising the definition of the term "clinic";  
 81 | amending ss. 400.991 and 400.9935, F.S.; conforming  
 82 | provisions to changes made by the act; amending s.  
 83 | 409.901, F.S.; revising the definition of the term  
 84 | "third-party benefit"; amending s. 409.910, F.S.;  
 85 | revising the definition of the term "medical  
 86 | coverage"; amending s. 456.057, F.S.; conforming a  
 87 | cross-reference; amending s. 456.072, F.S.; revising  
 88 | specified grounds for discipline for certain health  
 89 | professions; amending s. 626.9541, F.S.; conforming a  
 90 | provision to changes made by the act; revising the  
 91 | type of insurance coverage applicable to a certain  
 92 | prohibited act; amending s. 626.989, F.S.; revising  
 93 | the definition of the term "fraudulent insurance act";  
 94 | amending s. 627.06501, F.S.; revising coverages that  
 95 | may provide for a reduction in motor vehicle insurance  
 96 | policy premium charges under certain circumstances;  
 97 | amending s. 627.0651, F.S.; specifying requirements  
 98 | for initial rate filings for motor vehicle liability  
 99 | policies submitted to the Office of Insurance  
 100 | Regulation beginning on a specified date; amending s.

101 627.0652, F.S.; revising coverages that must provide a  
 102 premium charge reduction under certain circumstances;  
 103 amending s. 627.0653, F.S.; revising coverages subject  
 104 to premium discounts for specified motor vehicle  
 105 equipment; amending s. 627.4132, F.S.; revising the  
 106 coverages of a motor vehicle policy which are subject  
 107 to a stacking prohibition; amending s. 627.7263, F.S.;  
 108 revising coverages that are deemed primary, except  
 109 under certain circumstances, for the lessor of a motor  
 110 vehicle for lease or rent; revising a notice that is  
 111 required if the lessee's coverage is to be primary;  
 112 creating s. 627.7265, F.S.; specifying persons whom  
 113 medical payments coverage must protect; specifying the  
 114 minimum medical expense and death benefit limits;  
 115 specifying coverage options an insurer must and may  
 116 offer; providing that motor vehicle liability  
 117 insurance policies are deemed to have medical payments  
 118 coverage at a certain limit and with no deductible  
 119 unless rejected or modified by the policyholder by  
 120 certain means; specifying requirements for certain  
 121 forms approved by the office; requiring insurers to  
 122 provide policyholders with a certain annual notice;  
 123 providing construction relating to limits on certain  
 124 other coverages; requiring insurers, upon receiving  
 125 certain notice of an accident, to hold a specified

126 | reserve for certain purposes for a certain timeframe;  
 127 | providing that the reserve requirement does not  
 128 | require insurers to establish a claim reserve for  
 129 | accounting purposes; specifying that an insurer  
 130 | providing medical payments coverage benefits may not  
 131 | have a lien on a certain recovery and may not have a  
 132 | certain cause of action; authorizing insurers to  
 133 | include policy provisions allowing for subrogation,  
 134 | under certain circumstances, for medical payments  
 135 | benefits paid; providing construction; specifying a  
 136 | requirement for an insured for repayment of medical  
 137 | payments benefits under certain circumstances;  
 138 | prohibiting insurers from including policy provisions  
 139 | allowing for subrogation for death benefits paid;  
 140 | amending s. 627.727, F.S.; revising the legal  
 141 | liability of an uninsured motorist coverage insurer;  
 142 | conforming provisions to changes made by the act;  
 143 | amending s. 627.7275, F.S.; revising required  
 144 | coverages for a motor vehicle insurance policy;  
 145 | conforming provisions to changes made by the act;  
 146 | creating s. 627.7278, F.S.; defining the term "minimum  
 147 | security requirements"; providing a prohibition,  
 148 | requirements, applicability, and construction relating  
 149 | to motor vehicle insurance policies as of a certain  
 150 | date; requiring insurers to allow certain insureds to

151 make certain coverage changes, subject to certain  
 152 conditions; requiring an insurer to provide, by a  
 153 specified date, a specified notice to policyholders  
 154 relating to requirements under the act; amending s.  
 155 627.728, F.S.; conforming a provision to changes made  
 156 by the act; amending s. 627.7295, F.S.; revising the  
 157 definitions of the terms "policy" and "binder";  
 158 revising the coverages of a motor vehicle insurance  
 159 policy for which a licensed general lines agent may  
 160 charge a specified fee; conforming a provision to  
 161 changes made by the act; amending s. 627.7415, F.S.;  
 162 revising additional liability insurance requirements  
 163 for commercial motor vehicles; creating s. 627.747,  
 164 F.S.; providing that private passenger motor vehicle  
 165 policies may exclude certain identified individuals  
 166 from specified coverages under certain circumstances;  
 167 providing that such policies may not exclude coverage  
 168 under certain circumstances; amending s. 627.748,  
 169 F.S.; revising insurance requirements for  
 170 transportation network company drivers; conforming  
 171 provisions to changes made by the act; amending s.  
 172 627.749, F.S.; conforming a provision to changes made  
 173 by the act; amending s. 627.8405, F.S.; revising  
 174 coverages in a policy sold in combination with an  
 175 accidental death and dismemberment policy which a

176 premium finance company may not finance; revising  
 177 rulemaking authority of the Financial Services  
 178 Commission; amending ss. 627.915, 628.909, 705.184,  
 179 and 713.78, F.S.; conforming provisions to changes  
 180 made by the act; amending s. 817.234, F.S.; revising  
 181 coverages that are the basis of specified prohibited  
 182 false and fraudulent insurance claims; conforming  
 183 provisions to changes made by the act; providing an  
 184 appropriation; providing effective dates.

185

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

187

188 Section 1. Sections 627.730, 627.731, 627.7311, 627.732,  
 189 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403,  
 190 and 627.7405, Florida Statutes, are repealed.

191 Section 2. Section 627.7407, Florida Statutes, is  
 192 repealed.

193 Section 3. Subsection (1) of section 316.646, Florida  
 194 Statutes, is amended to read:

195 316.646 Security required; proof of security and display  
 196 thereof.-

197 (1) Any person required by s. 324.022 to maintain  
 198 liability security for property damage, ~~liability security,~~  
 199 ~~required by s. 324.023 to maintain liability security for bodily~~  
 200 ~~injury, or death, or required by s. 627.733 to maintain personal~~

201 | ~~injury protection security on a motor vehicle~~ shall have in his  
 202 | or her immediate possession at all times while operating such  
 203 | motor vehicle proper proof of maintenance of the ~~required~~  
 204 | security required under s. 324.021(7).

205 | (a) Such proof must ~~shall~~ be in a uniform paper or  
 206 | electronic format, as prescribed by the department, a valid  
 207 | insurance policy, an insurance policy binder, a certificate of  
 208 | insurance, or such other proof as may be prescribed by the  
 209 | department.

210 | (b)1. The act of presenting to a law enforcement officer  
 211 | an electronic device displaying proof of insurance in an  
 212 | electronic format does not constitute consent for the officer to  
 213 | access any information on the device other than the displayed  
 214 | proof of insurance.

215 | 2. The person who presents the device to the officer  
 216 | assumes the liability for any resulting damage to the device.

217 | Section 4. Paragraph (b) of subsection (2) of section  
 218 | 318.18, Florida Statutes, is amended to read:

219 | 318.18 Amount of penalties.—The penalties required for a  
 220 | noncriminal disposition pursuant to s. 318.14 or a criminal  
 221 | offense listed in s. 318.17 are as follows:

222 | (2) Thirty dollars for all nonmoving traffic violations  
 223 | and:

224 | (b) For all violations of ss. 320.0605, 320.07(1),  
 225 | 322.065, and 322.15(1). A ~~Any~~ person who is cited for a

226 violation of s. 320.07(1) shall be charged a delinquent fee  
 227 pursuant to s. 320.07(4).

228 1. If a person who is cited for a violation of s. 320.0605  
 229 or s. 320.07 can show proof of having a valid registration at  
 230 the time of arrest, the clerk of the court may dismiss the case  
 231 and may assess a dismissal fee of up to \$10, from which the  
 232 clerk shall remit \$2.50 to the Department of Revenue for deposit  
 233 into the General Revenue Fund. A person who finds it impossible  
 234 or impractical to obtain a valid registration certificate must  
 235 submit an affidavit detailing the reasons for the impossibility  
 236 or impracticality. The reasons may include, but are not limited  
 237 to, the fact that the vehicle was sold, stolen, or destroyed;  
 238 that the state in which the vehicle is registered does not issue  
 239 a certificate of registration; or that the vehicle is owned by  
 240 another person.

241 2. If a person who is cited for a violation of s. 322.03,  
 242 s. 322.065, or s. 322.15 can show a driver license issued to him  
 243 or her and valid at the time of arrest, the clerk of the court  
 244 may dismiss the case and may assess a dismissal fee of up to  
 245 \$10, from which the clerk shall remit \$2.50 to the Department of  
 246 Revenue for deposit into the General Revenue Fund.

247 3. If a person who is cited for a violation of s. 316.646  
 248 can show proof of security as required by s. 324.021(7) ~~s.~~  
 249 ~~627.733~~, issued to the person and valid at the time of arrest,  
 250 the clerk of the court may dismiss the case and may assess a

251 dismissal fee of up to \$10, from which the clerk shall remit  
 252 \$2.50 to the Department of Revenue for deposit into the General  
 253 Revenue Fund. A person who finds it impossible or impractical to  
 254 obtain proof of security must submit an affidavit detailing the  
 255 reasons for the impracticality. The reasons may include, but are  
 256 not limited to, the fact that the vehicle has since been sold,  
 257 stolen, or destroyed; ~~that the owner or registrant of the~~  
 258 ~~vehicle is not required by s. 627.733 to maintain personal~~  
 259 ~~injury protection insurance;~~ or that the vehicle is owned by  
 260 another person.

261 Section 5. Paragraphs (a) and (d) of subsection (5) of  
 262 section 320.02, Florida Statutes, are amended to read:

263 320.02 Registration required; application for  
 264 registration; forms.-

265 (5) (a) Proof that bodily injury liability coverage and  
 266 property damage liability coverage ~~personal injury protection~~  
 267 ~~benefits~~ have been purchased if required under s. 324.022, s.  
 268 324.032, or s. 627.742 ~~s. 627.733, that property damage~~  
 269 ~~liability coverage has been purchased as required under s.~~  
 270 ~~324.022,~~ that bodily injury liability ~~or death~~ coverage has been  
 271 purchased if required under s. 324.023, and that combined bodily  
 272 liability insurance and property damage liability insurance have  
 273 been purchased if required under s. 627.7415 must ~~shall~~ be  
 274 provided in the manner prescribed by law by the applicant at the  
 275 time of application for registration of any motor vehicle that

276 is subject to such requirements. The issuing agent may not ~~shall~~  
 277 ~~refuse to~~ issue registration if such proof of purchase is not  
 278 provided. Insurers shall furnish uniform proof-of-purchase cards  
 279 in a paper or electronic format in a form prescribed by the  
 280 department and include the name of the insured's insurance  
 281 company, the coverage identification number, and the make, year,  
 282 and vehicle identification number of the vehicle insured. The  
 283 card must contain a statement notifying the applicant of the  
 284 penalty specified under s. 316.646(4). The card or insurance  
 285 policy, insurance policy binder, or certificate of insurance or  
 286 a photocopy of any of these; an affidavit containing the name of  
 287 the insured's insurance company, the insured's policy number,  
 288 and the make and year of the vehicle insured; or such other  
 289 proof as may be prescribed by the department constitutes ~~shall~~  
 290 ~~constitute~~ sufficient proof of purchase. If an affidavit is  
 291 provided as proof, it must be in substantially the following  
 292 form:

293  
 294 Under penalty of perjury, I ...(Name of insured)... do hereby  
 295 certify that I have ...(bodily injury liability and Personal  
 296 ~~Injury Protection~~, property damage liability, ~~and, if required,~~  
 297 ~~Bodily Injury Liability~~)... insurance currently in effect with  
 298 ...(Name of insurance company)... under ...(policy number)...  
 299 covering ...(make, year, and vehicle identification number of  
 300 vehicle).... ...(Signature of Insured)...

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Such affidavit must include the following warning:

WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE  
REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA  
LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS  
SUBJECT TO PROSECUTION.

If an application is made through a licensed motor vehicle  
dealer as required under s. 319.23, the original or a photocopy  
~~photostatic copy~~ of such card, insurance policy, insurance  
policy binder, or certificate of insurance or the original  
affidavit from the insured must ~~shall~~ be forwarded by the dealer  
to the tax collector of the county or the Department of Highway  
Safety and Motor Vehicles for processing. By executing the  
~~aforsaid~~ affidavit, a ~~no~~ licensed motor vehicle dealer is not  
~~will be~~ liable in damages for any inadequacy, insufficiency, or  
falsification of any statement contained therein. ~~A card must~~  
~~also indicate the existence of any bodily injury liability~~  
~~insurance voluntarily purchased.~~

(d) The verifying of ~~proof of personal injury protection~~  
~~insurance, proof of property damage liability insurance, proof~~  
~~of combined bodily liability insurance and property damage~~  
~~liability insurance, or~~ proof of financial responsibility  
~~insurance~~ and the issuance or failure to issue the motor vehicle

326 registration under ~~the provisions of~~ this chapter may not be  
 327 construed in any court as a warranty of the reliability or  
 328 accuracy of the evidence of such proof, or as meaning that the  
 329 provisions of any insurance policy furnished as proof of  
 330 financial responsibility comply with state law. Neither the  
 331 department nor any tax collector is liable in damages for any  
 332 inadequacy, insufficiency, falsification, or unauthorized  
 333 modification of any item of ~~the proof of personal injury~~  
 334 ~~protection insurance, proof of property damage liability~~  
 335 ~~insurance, proof of combined bodily liability insurance and~~  
 336 ~~property damage liability insurance, or~~ proof of financial  
 337 responsibility before ~~insurance prior to~~, during, or subsequent  
 338 to the verification of the proof. The issuance of a motor  
 339 vehicle registration does not constitute prima facie evidence or  
 340 a presumption of insurance coverage.

341 Section 6. Paragraph (b) of subsection (1) of section  
 342 320.0609, Florida Statutes, is amended to read:

343 320.0609 Transfer and exchange of registration license  
 344 plates; transfer fee.—

345 (1)

346 (b) The transfer of a license plate from a vehicle  
 347 disposed of to a newly acquired vehicle does not constitute a  
 348 new registration. The application for transfer must ~~shall~~ be  
 349 accepted without requiring proof of ~~personal injury protection~~  
 350 ~~or~~ liability insurance.

351 Section 7. Paragraph (g) is added to subsection (1) of  
 352 section 320.27, Florida Statutes, and subsection (3) of that  
 353 section is amended, to read:

354 320.27 Motor vehicle dealers.—

355 (1) DEFINITIONS.—The following words, terms, and phrases  
 356 when used in this section have the meanings respectively  
 357 ascribed to them in this subsection, except where the context  
 358 clearly indicates a different meaning:

359 (g) "Garage liability insurance" means, beginning January  
 360 1, 2021, combined single-limit liability coverage, including  
 361 property damage and bodily injury liability coverage, in the  
 362 amount of at least \$60,000.

363 (3) APPLICATION AND FEE.—The ~~application for the license~~  
 364 application must ~~shall~~ be in such form as may be prescribed by  
 365 the department and is ~~shall be~~ subject to such rules ~~with~~  
 366 ~~respect thereto~~ as may be so prescribed by the department ~~it~~.  
 367 Such application must ~~shall~~ be verified by oath or affirmation  
 368 and must ~~shall~~ contain a full statement of the name and birth  
 369 date of the person or persons applying for the license ~~therefor~~;  
 370 the name of the firm or copartnership, with the names and places  
 371 of residence of all members ~~thereof~~, if such applicant is a firm  
 372 or copartnership; the names and places of residence of the  
 373 principal officers, if the applicant is a body corporate or  
 374 other artificial body; the name of the state under whose laws  
 375 the corporation is organized; the present and former place or

376 places of residence of the applicant; and the prior business in  
 377 which the applicant has been engaged and its ~~the~~ location  
 378 ~~thereof~~. ~~The~~ ~~Such~~ application must ~~shall~~ describe the exact  
 379 location of the place of business and must ~~shall~~ state whether  
 380 the place of business is owned by the applicant and when  
 381 acquired, or, if leased, a true copy of the lease must ~~shall~~ be  
 382 attached to the application. The applicant shall certify that  
 383 the location provides an adequately equipped office and is not a  
 384 residence; that the location affords sufficient unoccupied space  
 385 upon and within which adequately to store all motor vehicles  
 386 offered and displayed for sale; and that the location is a  
 387 suitable place where the applicant can in good faith carry on  
 388 such business and keep and maintain books, records, and files  
 389 necessary to conduct such business, which must ~~shall~~ be  
 390 available at all reasonable hours to inspection by the  
 391 department or any of its inspectors or other employees. The  
 392 applicant shall certify that the business of a motor vehicle  
 393 dealer is the principal business that will ~~which shall~~ be  
 394 conducted at that location. The application must ~~shall~~ contain a  
 395 statement that the applicant is either franchised by a  
 396 manufacturer of motor vehicles, in which case the name of each  
 397 motor vehicle that the applicant is franchised to sell must  
 398 ~~shall~~ be included, or an independent (nonfranchised) motor  
 399 vehicle dealer. The application must ~~shall~~ contain other  
 400 relevant information as may be required by the department. The

401 applicant shall furnish, including evidence, in a form approved  
 402 by the department, that the applicant is insured under a garage  
 403 liability insurance policy or a general liability insurance  
 404 policy coupled with a business automobile policy having the  
 405 coverages and limits of the garage liability insurance coverage  
 406 in accordance with paragraph (1)(g), which shall include, at a  
 407 minimum, \$25,000 combined single limit liability coverage  
 408 including bodily injury and property damage protection and  
 409 \$10,000 personal injury protection. However, a salvage motor  
 410 vehicle dealer as defined in subparagraph (1)(c)5. is exempt  
 411 from the requirements for garage liability insurance and  
 412 personal injury protection insurance on those vehicles that  
 413 cannot be legally operated on roads, highways, or streets in  
 414 this state. Franchise dealers must submit a garage liability  
 415 insurance policy, and all other dealers must submit a garage  
 416 liability insurance policy or a general liability insurance  
 417 policy coupled with a business automobile policy. Such policy  
 418 must shall be for the license period, and evidence of a new or  
 419 continued policy must shall be delivered to the department at  
 420 the beginning of each license period. Upon making an initial  
 421 application, the applicant shall pay to the department a fee of  
 422 \$300 in addition to any other fees required by law. Applicants  
 423 may choose to extend the licensure period for 1 additional year  
 424 for a total of 2 years. An initial applicant shall pay to the  
 425 department a fee of \$300 for the first year and \$75 for the

426 second year, in addition to any other fees required by law. An  
 427 applicant for renewal shall pay to the department \$75 for a 1-  
 428 year renewal or \$150 for a 2-year renewal, in addition to any  
 429 other fees required by law. Upon making an application for a  
 430 change of location, the applicant ~~person~~ shall pay a fee of \$50  
 431 in addition to any other fees now required by law. The  
 432 department shall, in the case of every application for initial  
 433 licensure, verify whether certain facts set forth in the  
 434 application are true. Each applicant, general partner in the  
 435 case of a partnership, or corporate officer and director in the  
 436 case of a corporate applicant shall, ~~must~~ file a set of  
 437 fingerprints with the department for the purpose of determining  
 438 any prior criminal record or any outstanding warrants. The  
 439 department shall submit the fingerprints to the Department of  
 440 Law Enforcement for state processing and forwarding to the  
 441 Federal Bureau of Investigation for federal processing. The  
 442 actual cost of state and federal processing must ~~shall~~ be borne  
 443 by the applicant and is in addition to the fee for licensure.  
 444 The department may issue a license to an applicant pending the  
 445 results of the fingerprint investigation, which license is fully  
 446 revocable if the department subsequently determines that any  
 447 facts set forth in the application are not true or correctly  
 448 represented.

449 Section 8. Paragraph (j) of subsection (3) of section  
 450 320.771, Florida Statutes, is amended to read:

451 320.771 License required of recreational vehicle dealers.-

452 (3) APPLICATION.-The application for such license shall be  
 453 in the form prescribed by the department and subject to such  
 454 rules as may be prescribed by it. The application shall be  
 455 verified by oath or affirmation and shall contain:

456 (j) A statement that the applicant is insured under a  
 457 garage liability insurance policy in accordance with s.  
 458 320.27(1)(g), ~~which shall include, at a minimum, \$25,000~~  
 459 ~~combined single limit liability coverage, including bodily~~  
 460 ~~injury and property damage protection, and \$10,000 personal~~  
 461 ~~injury protection,~~ if the applicant is to be licensed as a  
 462 dealer in, or intends to sell, recreational vehicles.

463  
 464 The department shall, if it deems necessary, cause an  
 465 investigation to be made to ascertain if the facts set forth in  
 466 the application are true and shall not issue a license to the  
 467 applicant until it is satisfied that the facts set forth in the  
 468 application are true.

469 Section 9. Subsections (1) and (2) of section 322.251,  
 470 Florida Statutes, are amended to read:

471 322.251 Notice of cancellation, suspension, revocation, or  
 472 disqualification of license.-

473 (1) All orders of cancellation, suspension, revocation, or  
 474 disqualification issued under ~~the provisions of~~ this chapter,  
 475 chapter 318, or chapter 324 must, ~~or ss. 627.732-627.734 shall~~

476 be given either by personal delivery thereof to the licensee  
477 whose license is being canceled, suspended, revoked, or  
478 disqualified or by deposit in the United States mail in an  
479 envelope, first class, postage prepaid, addressed to the  
480 licensee at his or her last known mailing address furnished to  
481 the department. Such mailing by the department constitutes  
482 notification, and any failure by the person to receive the  
483 mailed order will not affect or stay the effective date or term  
484 of the cancellation, suspension, revocation, or disqualification  
485 of the licensee's driving privilege.

486 (2) The giving of notice and an order of cancellation,  
487 suspension, revocation, or disqualification by mail is complete  
488 upon expiration of 20 days after deposit in the United States  
489 mail for all notices except those issued under chapter 324 ~~or~~  
490 ~~ss. 627.732-627.734~~, which are complete 15 days after deposit in  
491 the United States mail. Proof of the giving of notice and an  
492 order of cancellation, suspension, revocation, or  
493 disqualification in either manner must ~~shall~~ be made by entry in  
494 the records of the department that such notice was given. The  
495 entry is admissible in the courts of this state and constitutes  
496 sufficient proof that such notice was given.

497 Section 10. Paragraph (a) of subsection (8) of section  
498 322.34, Florida Statutes, is amended to read:

499 322.34 Driving while license suspended, revoked, canceled,  
500 or disqualified.-

501 (8) (a) Upon the arrest of a person for the offense of  
 502 driving while the person's driver license or driving privilege  
 503 is suspended or revoked, the arresting officer shall determine:

504 1. Whether the person's driver license is suspended or  
 505 revoked, or the person is under suspension or revocation  
 506 equivalent status.

507 2. Whether the person's driver license has remained  
 508 suspended or revoked, or the person has been under suspension or  
 509 revocation equivalent status, since a conviction for the offense  
 510 of driving with a suspended or revoked license.

511 3. Whether the suspension, revocation, or suspension or  
 512 revocation equivalent status was made under s. 316.646 ~~or s.~~  
 513 ~~627.733~~, relating to failure to maintain required security, or  
 514 under s. 322.264, relating to habitual traffic offenders.

515 4. Whether the driver is the registered owner or co-owner  
 516 of the vehicle.

517 Section 11. Section 324.011, Florida Statutes, is amended  
 518 to read:

519 324.011 Legislative intent and purpose of chapter.—It is  
 520 the Legislature's intent of this chapter to ensure that the  
 521 privilege of owning or operating a motor vehicle in this state  
 522 is exercised ~~recognize the existing privilege to own or operate~~  
 523 ~~a motor vehicle on the public streets and highways of this state~~  
 524 ~~when such vehicles are used~~ with due consideration for others'  
 525 safety ~~others~~ and their property, ~~and~~ to promote safety, and to

526 provide financial security requirements for ~~such~~ owners and ~~or~~  
 527 operators whose responsibility it is to recompense others for  
 528 injury to person or property caused by the operation of a motor  
 529 vehicle. Therefore, this chapter requires that every owner or  
 530 operator of a motor vehicle required to be registered in this  
 531 state establish, maintain, and ~~it is required herein that the~~  
 532 ~~operator of a motor vehicle involved in a crash or convicted of~~  
 533 ~~certain traffic offenses meeting the operative provisions of s.~~  
 534 ~~324.051(2) shall respond for such damages and show proof of~~  
 535 financial ability to respond for damages arising out of the  
 536 ownership, maintenance, or use of a motor vehicle ~~in future~~  
 537 ~~accidents~~ as a requisite to owning or operating a motor vehicle  
 538 in this state ~~his or her future exercise of such privileges.~~

539 Section 12. Subsections (1) and (7) and paragraph (c) of  
 540 subsection (9) of section 324.021, Florida Statutes, are  
 541 amended, and subsection (12) is added to that section, to read:

542 324.021 Definitions; minimum insurance required.—The  
 543 following words and phrases when used in this chapter shall, for  
 544 the purpose of this chapter, have the meanings respectively  
 545 ascribed to them in this section, except in those instances  
 546 where the context clearly indicates a different meaning:

547 (1) MOTOR VEHICLE.—Every self-propelled vehicle that is  
 548 designed and required to be licensed for use upon a highway,  
 549 including trailers and semitrailers designed for use with such  
 550 vehicles, except traction engines, road rollers, farm tractors,

551 power shovels, and well drillers, and every vehicle that is  
 552 propelled by electric power obtained from overhead wires but not  
 553 operated upon rails, but not including any personal delivery  
 554 device or mobile carrier as defined in s. 316.003, bicycle, or  
 555 moped. ~~However, the term "motor vehicle" does not include a~~  
 556 ~~motor vehicle as defined in s. 627.732(3) when the owner of such~~  
 557 ~~vehicle has complied with the requirements of ss. 627.730-~~  
 558 ~~627.7405, inclusive, unless the provisions of s. 324.051 apply,~~  
 559 ~~and, in such case, the applicable proof of insurance provisions~~  
 560 ~~of s. 320.02 apply.~~

561 (7) PROOF OF FINANCIAL RESPONSIBILITY. ~~That~~ Proof of  
 562 ability to respond in damages for liability on account of  
 563 crashes arising out of the ownership, maintenance, or use of a  
 564 motor vehicle:

565 (a) Beginning January 1, 2021, with respect to a motor  
 566 vehicle that is not a commercial motor vehicle, nonpublic sector  
 567 bus, or for-hire passenger transportation vehicle, in the amount  
 568 of:

569 1. Twenty-five thousand dollars for ~~\$10,000 because of~~  
 570 bodily injury to, or the death of, one person in any one crash  
 571 and,

572 ~~(b)~~ subject to such limits for one person, in the amount  
 573 of \$50,000 for ~~\$20,000 because of~~ bodily injury to, or the death  
 574 of, two or more persons in any one crash; and

575 2.(e) Ten thousand dollars for damage ~~In the amount of~~

576 ~~\$10,000 because of injury to, or destruction of, property of~~  
 577 ~~others in any one crash, and~~

578 (b) (d) With respect to commercial motor vehicles ~~and~~  
 579 ~~nonpublic sector buses~~, in the amounts specified in s. 627.7415  
 580 ~~ss. 627.7415 and 627.742, respectively.~~

581 (c) With respect to nonpublic sector buses, in the amounts  
 582 specified in s. 627.742.

583 (d) With respect to for-hire passenger transportation  
 584 vehicles, in the amounts specified in s. 324.032.

585 (9) OWNER; OWNER/LESSOR.—

586 (c) *Application.*—

587 1. The limits on liability in subparagraphs (b)2. and 3.  
 588 do not apply to an owner of motor vehicles that are used for  
 589 commercial activity in the owner's ordinary course of business,  
 590 other than a rental company that rents or leases motor vehicles.  
 591 For purposes of this paragraph, the term "rental company"  
 592 includes only an entity that is engaged in the business of  
 593 renting or leasing motor vehicles to the general public and that  
 594 rents or leases a majority of its motor vehicles to persons with  
 595 no direct or indirect affiliation with the rental company. The  
 596 term also includes a motor vehicle dealer that provides  
 597 temporary replacement vehicles to its customers for up to 10  
 598 days. The term "rental company" also includes:

599 a. A related rental or leasing company that is a  
 600 subsidiary of the same parent company as that of the renting or

601 leasing company that rented or leased the vehicle.

602       b. The holder of a motor vehicle title or an equity  
 603 interest in a motor vehicle title if the title or equity  
 604 interest is held pursuant to or to facilitate an asset-backed  
 605 securitization of a fleet of motor vehicles used solely in the  
 606 business of renting or leasing motor vehicles to the general  
 607 public and under the dominion and control of a rental company,  
 608 as described in this subparagraph, in the operation of such  
 609 rental company's business.

610       2. Furthermore, with respect to commercial motor vehicles  
 611 as defined in s. 207.002 or s. 320.01 ~~s. 627.732~~, the limits on  
 612 liability in subparagraphs (b)2. and 3. do not apply if, at the  
 613 time of the incident, the commercial motor vehicle is being used  
 614 in the transportation of materials found to be hazardous for the  
 615 purposes of the Hazardous Materials Transportation Authorization  
 616 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is  
 617 required pursuant to such act to carry placards warning others  
 618 of the hazardous cargo, unless at the time of lease or rental  
 619 either:

620       a. The lessee indicates in writing that the vehicle will  
 621 not be used to transport materials found to be hazardous for the  
 622 purposes of the Hazardous Materials Transportation Authorization  
 623 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

624       b. The lessee or other operator of the commercial motor  
 625 vehicle has in effect insurance with limits of at least \$5

626 million \$5,000,000 combined property damage and bodily injury  
 627 liability.

628 (12) FOR-HIRE PASSENGER TRANSPORTATION VEHICLE.—Every for-  
 629 hire vehicle as defined in s. 320.01(15) which is offered or  
 630 used to provide transportation for persons, including taxicabs,  
 631 limousines, and jitneys.

632 Section 13. Section 324.022, Florida Statutes, is amended  
 633 to read:

634 324.022 Financial responsibility requirements ~~for property~~  
 635 ~~damage.~~—

636 (1) (a) Beginning January 1, 2021, every owner or operator  
 637 of a motor vehicle required to be registered in this state shall  
 638 establish and continuously maintain the ability to respond in  
 639 damages for liability on account of accidents arising out of the  
 640 use of the motor vehicle in the amount of:

641 1. Twenty-five thousand dollars for bodily injury to, or  
 642 the death of, one person in any one crash and, subject to such  
 643 limits for one person, in the amount of \$50,000 for bodily  
 644 injury to, or the death of, two or more persons in any one  
 645 crash; and

646 2. Ten thousand dollars for ~~\$10,000 because of~~ damage to,  
 647 or destruction of, property of others in any one crash.

648 (b) The requirements of paragraph (a) ~~this section~~ may be  
 649 met by one of the methods established in s. 324.031; by self-  
 650 insuring as authorized by s. 768.28(16); or by maintaining a

651 motor vehicle liability insurance policy that an insurance  
 652 policy providing coverage for property damage liability in the  
 653 amount of at least \$10,000 because of damage to, or destruction  
 654 of, property of others in any one accident arising out of the  
 655 use of the motor vehicle. The requirements of this section may  
 656 also be met by having a policy which provides combined property  
 657 damage liability and bodily injury liability coverage for any  
 658 one crash arising out of the ownership, maintenance, or use of a  
 659 motor vehicle and that conforms to the requirements of s.  
 660 324.151 in the amount of at least \$60,000 for every owner or  
 661 operator subject to the financial responsibility required in  
 662 paragraph (a) \$30,000 for combined property damage liability and  
 663 bodily injury liability for any one crash arising out of the use  
 664 of the motor vehicle. The policy, with respect to coverage for  
 665 property damage liability, must meet the applicable requirements  
 666 of s. 324.151, subject to the usual policy exclusions that have  
 667 been approved in policy forms by the Office of Insurance  
 668 Regulation. No insurer shall have any duty to defend uncovered  
 669 claims irrespective of their joinder with covered claims.

- 670 (2) As used in this section, the term:
- 671 (a) "Motor vehicle" means any self-propelled vehicle that
- 672 has four or more wheels and that is of a type designed and
- 673 required to be licensed for use on the highways of this state,
- 674 and any trailer or semitrailer designed for use with such
- 675 vehicle. The term does not include the following:

- 676 1. A mobile home as defined in s. 320.01.
- 677 2. A motor vehicle that is used in mass transit and  
 678 designed to transport more than five passengers, exclusive of  
 679 the operator of the motor vehicle, and that is owned by a  
 680 municipality, transit authority, or political subdivision of the  
 681 state.
- 682 3. A school bus as defined in s. 1006.25, which must  
 683 maintain security as required under s. 316.615.
- 684 4. A commercial motor vehicle as defined in s. 207.002 or  
 685 s. 320.01, which must maintain security as required under ss.  
 686 324.031 and 627.7415.
- 687 5. A nonpublic sector bus, which must maintain security as  
 688 required under ss. 324.031 and 627.742.
- 689 ~~6.4. A vehicle providing for-hire passenger transportation~~  
 690 ~~vehicle, which must that is subject to the provisions of s.~~  
 691 ~~324.031. A taxicab shall maintain security as required under s.~~  
 692 ~~324.032 s. 324.032(1).~~
- 693 ~~7.5.~~ A personal delivery device as defined in s. 316.003.
- 694 (b) "Owner" means the person who holds legal title to a  
 695 motor vehicle or the debtor or lessee who has the right to  
 696 possession of a motor vehicle that is the subject of a security  
 697 agreement or lease with an option to purchase.
- 698 (3) Each nonresident owner or registrant of a motor  
 699 vehicle that, whether operated or not, has been physically  
 700 present within this state for more than 90 days during the

701 preceding 365 days shall maintain security as required by  
 702 subsection (1). The security must be ~~that is~~ in effect  
 703 continuously throughout the period the motor vehicle remains  
 704 within this state.

705 (4) An ~~The~~ owner or registrant of a motor vehicle who is  
 706 ~~exempt from the requirements of this section if she or he is a~~  
 707 member of the United States Armed Forces and is called to or on  
 708 active duty outside the United States in an emergency situation  
 709 is exempt from this section while he or she. ~~The exemption~~  
 710 ~~provided by this subsection applies only as long as the member~~  
 711 ~~of the Armed Forces~~ is on such active duty. This exemption  
 712 ~~outside the United States and~~ applies only while the vehicle  
 713 covered by the security is not operated by any person. Upon  
 714 receipt of a written request by the insured to whom the  
 715 exemption provided in this subsection applies, the insurer shall  
 716 cancel the coverages and return any unearned premium or suspend  
 717 the security required by this section. Notwithstanding s.  
 718 324.0221(2) ~~s. 324.0221(3)~~, the department may not suspend the  
 719 registration or operator's license of an ~~any~~ owner or registrant  
 720 of a motor vehicle during the time she or he qualifies for the  
 721 ~~an~~ exemption under this subsection. An ~~Any~~ owner or registrant  
 722 of a motor vehicle who qualifies for the ~~an~~ exemption under this  
 723 subsection shall immediately notify the department before ~~prior~~  
 724 ~~to~~ and at the end of the expiration of the exemption.

725 Section 14. Subsections (1) and (2) of section 324.0221,

726 Florida Statutes, are amended to read:

727 324.0221 Reports by insurers to the department; suspension  
 728 of driver license and vehicle registrations; reinstatement.—

729 (1)(a) Each insurer that has issued a policy providing  
 730 ~~personal injury protection coverage or property damage~~ liability  
 731 coverage shall report the cancellation or nonrenewal thereof to  
 732 the department within 10 days after the processing date or  
 733 effective date of each cancellation or nonrenewal. Upon the  
 734 issuance of a policy providing ~~personal injury protection~~  
 735 ~~coverage or property damage~~ liability coverage to a named  
 736 insured not previously insured by the insurer during that  
 737 calendar year, the insurer shall report the issuance of the new  
 738 policy to the department within 10 days. The report must ~~shall~~  
 739 be in the form ~~and format~~ and contain any information required  
 740 by the department and must be provided in a format that is  
 741 compatible with the data processing capabilities of the  
 742 department. Failure by an insurer to file proper reports with  
 743 the department as required by this subsection constitutes a  
 744 violation of the Florida Insurance Code. These records may ~~shall~~  
 745 be used by the department only for enforcement and regulatory  
 746 purposes, including the generation by the department of data  
 747 regarding compliance by owners of motor vehicles with the  
 748 requirements for financial responsibility coverage.

749 (b) With respect to an insurance policy providing ~~personal~~  
 750 ~~injury protection coverage or property damage~~ liability

751 coverage, each insurer shall notify the named insured, or the  
 752 first-named insured in the case of a commercial fleet policy, in  
 753 writing that any cancellation or nonrenewal of the policy will  
 754 be reported by the insurer to the department. The notice must  
 755 also inform the named insured that failure to maintain bodily  
 756 injury liability ~~personal injury protection~~ coverage and  
 757 property damage liability coverage on a motor vehicle when  
 758 required by law may result in the loss of registration and  
 759 driving privileges in this state and inform the named insured of  
 760 the amount of the reinstatement fees required by this section.  
 761 This notice is for informational purposes only, and an insurer  
 762 is not civilly liable for failing to provide this notice.

763 (2) The department shall suspend, after due notice and an  
 764 opportunity to be heard, the registration and driver license of  
 765 any owner or registrant of a motor vehicle for ~~with respect to~~  
 766 which security is required under s. 324.022, s. 324.032, s.  
 767 627.7415, or s. 627.742 ~~ss. 324.022 and 627.733~~ upon:

768 (a) The department's records showing that the owner or  
 769 registrant of such motor vehicle did not have the ~~in full force~~  
 770 ~~and effect when~~ required security in full force and effect ~~that~~  
 771 ~~complies with the requirements of ss. 324.022 and 627.733;~~ or

772 (b) Notification by the insurer to the department, in a  
 773 form approved by the department, of cancellation or termination  
 774 of the required security.

775 Section 15. Section 324.0222, Florida Statutes, is created

776 to read:

777 324.0222 Application of suspensions for failure to  
 778 maintain security; reinstatement.—All suspensions for failure to  
 779 maintain required security as required by law in effect before  
 780 January 1, 2021, remain in full force and effect on or after  
 781 January 1, 2021. A driver may reinstate a suspended driver  
 782 license or registration as provided under s. 324.0221.

783 Section 16. Section 324.023, Florida Statutes, is amended  
 784 to read:

785 324.023 Financial responsibility for bodily injury or  
 786 death.—In addition to any other financial responsibility  
 787 required by law, every owner or operator of a motor vehicle that  
 788 is required to be registered in this state, or that is located  
 789 within this state, and who, regardless of adjudication of guilt,  
 790 has been found guilty of or entered a plea of guilty or nolo  
 791 contendere to a charge of driving under the influence under s.  
 792 316.193 after October 1, 2007, shall, by one of the methods  
 793 established in s. 324.031(1)(a) or (b) ~~s. 324.031(1) or (2)~~,  
 794 establish and maintain the ability to respond in damages for  
 795 liability on account of accidents arising out of the use of a  
 796 motor vehicle in the amount of \$100,000 because of bodily injury  
 797 to, or death of, one person in any one crash and, subject to  
 798 such limits for one person, in the amount of \$300,000 because of  
 799 bodily injury to, or death of, two or more persons in any one  
 800 crash and in the amount of \$50,000 because of property damage in

801 any one crash. If the owner or operator chooses to establish and  
 802 maintain such ability by furnishing a certificate of deposit  
 803 pursuant to s. 324.031(1)(b) ~~s. 324.031(2)~~, such certificate of  
 804 deposit must be at least \$350,000. Such higher limits must be  
 805 carried for a minimum period of 3 years. If the owner or  
 806 operator has not been convicted of driving under the influence  
 807 or a felony traffic offense for a period of 3 years from the  
 808 date of reinstatement of driving privileges for a violation of  
 809 s. 316.193, the owner or operator is ~~shall be~~ exempt from this  
 810 section.

811 Section 17. Section 324.031, Florida Statutes, is amended  
 812 to read:

813 324.031 Manner of proving financial responsibility.—

814 (1) ~~The owner or operator of a taxicab, limousine, jitney,~~  
 815 ~~or any other for-hire passenger transportation vehicle may prove~~  
 816 ~~financial responsibility by providing satisfactory evidence of~~  
 817 ~~holding a motor vehicle liability policy as defined in s.~~  
 818 ~~324.021(8) or s. 324.151, which policy is issued by an insurance~~  
 819 ~~carrier which is a member of the Florida Insurance Guaranty~~  
 820 ~~Association.~~ The operator or owner of a motor vehicle other than  
 821 a for-hire passenger transportation vehicle ~~any other vehicle~~  
 822 may prove his or her financial responsibility by:

823 (a) ~~(1)~~ Furnishing satisfactory evidence of holding a motor  
 824 vehicle liability policy as defined in ss. 324.021(8) and  
 825 324.151 which provides liability coverage for the motor vehicle

826 being operated;

827 (b)~~(2)~~ Furnishing a certificate of self-insurance showing  
828 a deposit of cash in accordance with s. 324.161; or

829 (c)~~(3)~~ Furnishing a certificate of self-insurance issued  
830 by the department in accordance with s. 324.171.

831 (2) (a) Beginning January 1, 2021, any person,~~including~~  
832 ~~any firm, partnership, association, corporation, or other~~  
833 ~~person, other than a natural person,~~ electing to use the method  
834 of proof specified in paragraph (1) (b) subsection (2) shall  
835 furnish a certificate of deposit equal to the number of vehicles  
836 owned times \$60,000 ~~\$30,000~~, to a maximum of \$240,000. ~~\$120,000.~~

837 (b) In addition, any such person,~~other than a natural~~  
838 ~~person,~~ shall maintain insurance providing coverage conforming  
839 to the requirements of s. 324.151 in excess of the amount of the  
840 certificate of deposit, with limits of at least:

841 1. One hundred twenty-five thousand dollars for bodily  
842 injury to, or the death of, one person in any one crash and,  
843 subject to such limits for one person, in the amount of \$250,000  
844 for bodily injury to, or the death of, two or more persons in  
845 any one crash, and \$50,000 for damage to, or destruction of,  
846 property of others in any one crash; or

847 2. Three hundred thousand dollars for combined bodily  
848 injury liability and property damage liability for any one crash  
849 ~~\$10,000/20,000/10,000 or \$30,000 combined single limits, and~~  
850 ~~such excess insurance shall provide minimum limits of~~

851  ~~\$125,000/250,000/50,000 or \$300,000 combined single limits.~~  
 852  ~~These increased limits shall not affect the requirements for~~  
 853  ~~proving financial responsibility under s. 324.032(1).~~

854 Section 18. Section 324.032, Florida Statutes, is amended  
 855 to read:

856 324.032  ~~Manner of proving~~ Financial responsibility for  
 857 for-hire passenger transportation vehicles. ~~Notwithstanding the~~  
 858  ~~provisions of s. 324.031:~~

859 (1) An owner or lessee of a for-hire passenger  
 860 transportation vehicle that is required to be registered in this  
 861 state shall establish and continuously maintain the ability to  
 862 respond in damages for liability on account of accidents arising  
 863 out of the ownership, maintenance, or use of the for-hire  
 864 passenger transportation vehicle, in the amount of:

865 (a) One hundred twenty-five thousand dollars for bodily  
 866 injury to, or the death of, one person in any one crash and,  
 867 subject to such limits for one person, in the amount of \$250,000  
 868 for bodily injury to, or the death of, two or more persons in  
 869 any one crash; and ~~A person who is either the owner or a lessee~~  
 870 ~~required to maintain insurance under s. 627.733(1)(b) and who~~  
 871 ~~operates one or more taxicabs, limousines, jitneys, or any other~~  
 872 ~~for-hire passenger transportation vehicles may prove financial~~  
 873 ~~responsibility by furnishing satisfactory evidence of holding a~~  
 874 ~~motor vehicle liability policy, but with minimum limits of~~  
 875  ~~\$125,000/250,000/50,000.~~

876           (b) Fifty thousand dollars for damage to, or destruction  
 877 of, property of others in any one crash ~~A person who is either~~  
 878 ~~the owner or a lessee required to maintain insurance under s.~~  
 879 ~~324.021(9)(b) and who operates limousines, jitneys, or any other~~  
 880 ~~for hire passenger vehicles, other than taxicabs, may prove~~  
 881 ~~financial responsibility by furnishing satisfactory evidence of~~  
 882 ~~holding a motor vehicle liability policy as defined in s.~~  
 883 ~~324.031.~~

884           (2) Except as provided in subsection (3), the requirements  
 885 of this section must be met by the owner or lessee providing  
 886 satisfactory evidence of holding a motor vehicle liability  
 887 policy conforming to the requirements of s. 324.151 which is  
 888 issued by an insurance carrier that is a member of the Florida  
 889 Insurance Guaranty Association.

890           ~~(3)(2)~~ An owner or a lessee who ~~is required to maintain~~  
 891 ~~insurance under s. 324.021(9)(b) and who~~ operates at least 300  
 892 ~~taxicabs, limousines, jitneys, or any other~~ for-hire passenger  
 893 transportation vehicles may provide financial responsibility by  
 894 complying with ~~the provisions of~~ s. 324.171, which must ~~such~~  
 895 ~~compliance to~~ be demonstrated by maintaining at its principal  
 896 place of business an audited financial statement, prepared in  
 897 accordance with generally accepted accounting principles, and  
 898 providing to the department a certification issued by a  
 899 certified public accountant that the applicant's net worth is at  
 900 least equal to the requirements of s. 324.171 as determined by

901 the Office of Insurance Regulation of the Financial Services  
 902 Commission, including claims liabilities in an amount certified  
 903 as adequate by a Fellow of the Casualty Actuarial Society.

904  
 905 Upon request by the department, the applicant shall ~~must~~ provide  
 906 the department at the applicant's principal place of business in  
 907 this state access to the applicant's underlying financial  
 908 information and financial statements that provide the basis of  
 909 the certified public accountant's certification. The applicant  
 910 shall reimburse the requesting department for all reasonable  
 911 costs incurred by it in reviewing the supporting information.  
 912 The maximum amount of self-insurance permissible under this  
 913 subsection is \$300,000 and must be stated on a per-occurrence  
 914 basis, and the applicant shall maintain adequate excess  
 915 insurance issued by an authorized or eligible insurer licensed  
 916 or approved by the Office of Insurance Regulation. All risks  
 917 self-insured shall remain with the owner or lessee providing it,  
 918 and the risks are not transferable to any other person, unless a  
 919 policy complying with subsections (1) and (2) ~~subsection (1)~~ is  
 920 obtained.

921 Section 19. Paragraph (b) of subsection (2) of section  
 922 324.051, Florida Statutes, is amended to read:

923 324.051 Reports of crashes; suspensions of licenses and  
 924 registrations.—

925 (2)

926 (b) This subsection does ~~shall~~ not apply:

927 1. To such operator or owner if such operator or owner had

928 in effect at the time of such crash or traffic conviction a

929 motor vehicle ~~an automobile~~ liability policy with respect to all

930 of the registered motor vehicles owned by such operator or

931 owner.

932 2. To such operator, if not the owner of such motor

933 vehicle, if there was in effect at the time of such crash or

934 traffic conviction a motor vehicle ~~an automobile~~ liability

935 policy or bond with respect to his or her operation of motor

936 vehicles not owned by him or her.

937 3. To such operator or owner if the liability of such

938 operator or owner for damages resulting from such crash is, in

939 the judgment of the department, covered by any other form of

940 liability insurance or bond.

941 4. To any person who has obtained from the department a

942 certificate of self-insurance, in accordance with s. 324.171, or

943 to any person operating a motor vehicle for such self-insurer.

944

945 No such policy or bond shall be effective under this subsection

946 unless it contains limits of not less than those specified in s.

947 324.021(7).

948 Section 20. Section 324.071, Florida Statutes, is amended

949 to read:

950 324.071 Reinstatement; renewal of license; reinstatement

951 fee.—~~An~~ Any operator or owner whose license or registration has  
 952 been suspended pursuant to s. 324.051(2), s. 324.072, s.  
 953 324.081, or s. 324.121 may effect its reinstatement upon  
 954 compliance with ~~the provisions of~~ s. 324.051(2)(a)3. or 4., or  
 955 s. 324.081(2) and (3), as the case may be, and with one of the  
 956 provisions of s. 324.031 and upon payment to the department of a  
 957 nonrefundable reinstatement fee of \$15. Only one such fee may  
 958 ~~shall~~ be paid by any one person regardless ~~irrespective~~ of the  
 959 number of licenses and registrations to be then reinstated or  
 960 issued to such person. ~~All~~ Such fees must ~~shall~~ be deposited to  
 961 a department trust fund. If ~~When~~ the reinstatement of any  
 962 license or registration is effected by compliance with s.  
 963 324.051(2)(a)3. or 4., the department may ~~shall~~ not renew the  
 964 license or registration within ~~a period of~~ 3 years after ~~from~~  
 965 such reinstatement, nor may ~~shall~~ any other license or  
 966 registration be issued in the name of such person, unless the  
 967 operator continues ~~is continuing~~ to comply with ~~one of the~~  
 968 ~~provisions of~~ s. 324.031.

969 Section 21. Subsection (1) of section 324.091, Florida  
 970 Statutes, is amended to read:

971 324.091 Notice to department; notice to insurer.—

972 (1) Each owner and operator involved in a crash or  
 973 conviction case within the purview of this chapter shall furnish  
 974 evidence of ~~automobile liability insurance or~~ motor vehicle  
 975 liability insurance within 14 days after the date of the mailing

976 of notice of crash by the department in the form and manner as  
 977 it may designate. Upon receipt of evidence that a ~~an automobile~~  
 978 ~~liability policy or~~ motor vehicle liability policy was in effect  
 979 at the time of the crash or conviction case, the department  
 980 shall forward to the insurer such information for verification  
 981 in a method as determined by the department. The insurer shall  
 982 respond to the department within 20 days after the notice as to  
 983 whether ~~or not~~ such information is valid. If the department  
 984 determines that a ~~an automobile liability policy or~~ motor  
 985 vehicle liability policy was not in effect and did not provide  
 986 coverage for both the owner and the operator, it must ~~shall~~ take  
 987 action as it is authorized to do under this chapter.

988 Section 22. Section 324.151, Florida Statutes, is amended  
 989 to read:

990 324.151 Motor vehicle liability policies; required  
 991 provisions.-

992 (1) A motor vehicle liability policy that serves as ~~to be~~  
 993 proof of financial responsibility under s. 324.031(1)(a) must ~~s.~~  
 994 ~~324.031(1), shall~~ be issued to owners or operators of motor  
 995 vehicles under the following provisions:

996 (a) A motor vehicle ~~An owner's~~ liability insurance policy  
 997 issued to an owner of a motor vehicle required to be registered  
 998 in this state must ~~shall~~ designate by explicit description or by  
 999 appropriate reference all motor vehicles for ~~with respect to~~  
 1000 which coverage is thereby granted. The policy must ~~and shall~~

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

1001 | insure the person or persons ~~owner~~ named therein and, except for  
 1002 | a named driver excluded pursuant to s. 627.747, must insure any  
 1003 | resident relative of a named insured ~~other person as operator~~  
 1004 | ~~using such motor vehicle or motor vehicles with the express or~~  
 1005 | ~~implied permission of such owner against loss~~ from the liability  
 1006 | imposed by law for damage arising out of the ownership,  
 1007 | maintenance, or use of any such motor vehicle ~~or motor vehicles~~  
 1008 | ~~within the United States or the Dominion of Canada, subject to~~  
 1009 | ~~limits, exclusive of interest and costs with respect to each~~  
 1010 | ~~such motor vehicle as is provided for under s. 324.021(7).~~  
 1011 | Except for a named driver excluded pursuant to s. 627.747, the  
 1012 | policy must also insure any person operating an insured motor  
 1013 | vehicle with the express or implied permission of a named  
 1014 | insured against loss from the liability imposed by law for  
 1015 | damage arising out of the use of the insured vehicle. However,  
 1016 | the insurer may include provisions in its policy excluding  
 1017 | liability coverage for a motor vehicle not designated as an  
 1018 | insured vehicle on the policy if such motor vehicle does not  
 1019 | qualify as a newly acquired vehicle, does not qualify as a  
 1020 | temporary substitute vehicle, and was owned by the insured or  
 1021 | was furnished for an insured's regular use for more than 30  
 1022 | consecutive days before the event giving rise to the claim.  
 1023 | Insurers may make available, with respect to property damage  
 1024 | liability coverage, a deductible amount not to exceed \$500. In  
 1025 | the event of a property damage loss covered by a policy

1026 containing a property damage deductible provision, the insurer  
 1027 shall pay to the third-party claimant the amount of any property  
 1028 damage liability settlement or judgment, subject to policy  
 1029 limits, as if no deductible existed.

1030 (b) A motor vehicle liability insurance policy issued to a  
 1031 person who does not own a motor vehicle must ~~An operator's motor~~  
 1032 ~~vehicle liability policy of insurance shall~~ insure the person or  
 1033 persons named therein against loss from the liability imposed  
 1034 ~~upon him or her~~ by law for damages arising out of the use ~~by the~~  
 1035 ~~person~~ of any motor vehicle not owned by him or her, ~~with the~~  
 1036 ~~same territorial limits and subject to the same limits of~~  
 1037 ~~liability as referred to above with respect to an owner's policy~~  
 1038 ~~of liability insurance.~~

1039 (c) All such motor vehicle liability policies must provide  
 1040 liability coverage with limits, exclusive of interest and costs,  
 1041 as specified under s. 324.021(7) for accidents occurring within  
 1042 the United States or Canada. The policies must ~~shall~~ state the  
 1043 name and address of the named insured, the coverage afforded by  
 1044 the policy, the premium charged therefor, the policy period, and  
 1045 the limits of liability, and must ~~shall~~ contain an agreement or  
 1046 be endorsed that insurance is provided in accordance with the  
 1047 coverage defined in this chapter ~~as respects bodily injury and~~  
 1048 ~~death or property damage or both~~ and is subject to ~~all~~  
 1049 ~~provisions of~~ this chapter. The said policies must ~~shall~~ also  
 1050 contain a provision that the satisfaction by an insured of a

1051 judgment for such injury or damage ~~may shall~~ not be a condition  
 1052 precedent to the right or duty of the insurance carrier to make  
 1053 payment on account of such injury or damage, and must ~~shall~~ also  
 1054 contain a provision that bankruptcy or insolvency of the insured  
 1055 or of the insured's estate ~~may shall~~ not relieve the insurance  
 1056 carrier of any of its obligations under the ~~said~~ policy.

1057 (2) ~~The provisions of~~ This section is ~~shall~~ not ~~be~~  
 1058 applicable to any motor vehicle ~~automobile~~ liability policy  
 1059 unless and until it is furnished as proof of financial  
 1060 responsibility for the future pursuant to s. 324.031, and then  
 1061 applies only from ~~and after~~ the date the ~~said~~ policy is ~~so~~  
 1062 furnished.

1063 (3) As used in this section, the term:

1064 (a) "Newly acquired vehicle" means a vehicle owned by a  
 1065 named insured or resident relative of the named insured which  
 1066 was acquired within 30 days before an accident.

1067 (b) "Resident relative" means a person related to a named  
 1068 insured by any degree by blood, marriage, or adoption, including  
 1069 a ward or foster child, who usually makes his or her home in the  
 1070 same family unit or residence as the named insured, whether or  
 1071 not he or she temporarily lives elsewhere.

1072 (c) "Temporary substitute vehicle" means any motor vehicle  
 1073 as defined in s. 320.01(1) which is not owned by the named  
 1074 insured and which is temporarily used with the permission of the  
 1075 owner as a substitute for the owned motor vehicle designated on

1076 the policy when the owned vehicle is withdrawn from normal use  
 1077 because of breakdown, repair, servicing, loss, or destruction.

1078 Section 23. Section 324.161, Florida Statutes, is amended  
 1079 to read:

1080 324.161 Proof of financial responsibility; deposit.—If a  
 1081 person elects to prove his or her financial responsibility under  
 1082 the method of proof specified in s. 324.031(1)(b), he or she  
 1083 annually must obtain and submit to the department proof of a  
 1084 certificate of deposit in the amount required under s.  
 1085 324.031(2) from a financial institution insured by the Federal  
 1086 Deposit Insurance Corporation or the National Credit Union  
 1087 Administration ~~Annually, before any certificate of insurance may~~  
 1088 ~~be issued to a person, including any firm, partnership,~~  
 1089 ~~association, corporation, or other person, other than a natural~~  
 1090 ~~person, proof of a certificate of deposit of \$30,000 issued and~~  
 1091 ~~held by a financial institution must be submitted to the~~  
 1092 ~~department.~~ A power of attorney will be issued to and held by  
 1093 the department and may be executed upon a judgment issued  
 1094 against such person making the deposit, for damages for ~~because~~  
 1095 ~~of~~ bodily injury to or death of any person or for damages for  
 1096 ~~because of~~ injury to or destruction of property resulting from  
 1097 the use or operation of any motor vehicle occurring after such  
 1098 deposit was made. Money so deposited is ~~shall~~ not ~~be~~ subject to  
 1099 attachment or execution unless such attachment or execution  
 1100 arises ~~shall arise~~ out of a lawsuit ~~suit~~ for such damages ~~as~~

1101 ~~aforsaid.~~

1102 Section 24. Subsections (1) and (2) of section 324.171,  
1103 Florida Statutes, are amended to read:

1104 324.171 Self-insurer.—

1105 (1) A ~~Any~~ person may qualify as a self-insurer by  
1106 obtaining a certificate of self-insurance from the department.  
1107 ~~which may, in its discretion and~~ Upon application of such a  
1108 person, the department may issue a ~~said~~ certificate of self-  
1109 insurance to an applicant who satisfies ~~when such person has~~  
1110 ~~satisfied~~ the requirements of this section. Effective January 1,  
1111 2021 ~~to qualify as a self-insurer under this section:~~

1112 (a) A private individual with private passenger vehicles  
1113 shall possess a net unencumbered worth of at least \$100,000  
1114 ~~\$40,000~~.

1115 (b) A person, including any firm, partnership,  
1116 association, corporation, or other person, other than a natural  
1117 person, shall:

1118 1. Possess a net unencumbered worth of at least \$100,000  
1119 ~~\$40,000~~ for the first motor vehicle and \$50,000 ~~\$20,000~~ for each  
1120 additional motor vehicle; or

1121 2. Maintain sufficient net worth, in an amount determined  
1122 by the department, to be financially responsible for potential  
1123 losses. The department annually shall determine the minimum net  
1124 worth sufficient to satisfy this subparagraph ~~as determined~~  
1125 ~~annually by the department,~~ pursuant to rules adopted

1126 ~~promulgated~~ by the department, with the assistance of the Office  
 1127 of Insurance Regulation of the Financial Services Commission, ~~to~~  
 1128 ~~be financially responsible for potential losses.~~ The rules must  
 1129 consider any ~~shall take into consideration~~ excess insurance  
 1130 carried by the applicant. The department's determination must  
 1131 ~~shall~~ be based upon reasonable actuarial principles considering  
 1132 the frequency, severity, and loss development of claims incurred  
 1133 by casualty insurers writing coverage on the type of motor  
 1134 vehicles for which a certificate of self-insurance is desired.

1135 (c) The owner of a commercial motor vehicle, as defined in  
 1136 s. 207.002 or s. 320.01, may qualify as a self-insurer subject  
 1137 to the standards provided ~~for~~ in subparagraph (b)2.

1138 (2) The self-insurance certificate must ~~shall~~ provide  
 1139 limits of liability insurance in the amounts specified under s.  
 1140 324.021(7) ~~or s. 627.7415 and shall provide personal injury~~  
 1141 ~~protection coverage under s. 627.733(3)(b).~~

1142 Section 25. Section 324.251, Florida Statutes, is amended  
 1143 to read:

1144 324.251 Short title.—This chapter may be cited as the  
 1145 "Financial Responsibility Law of 2020 ~~1955~~" and is ~~shall become~~  
 1146 effective at 12:01 a.m., January 1, 2021 ~~October 1, 1955~~.

1147 Section 26. Subsection (4) of section 400.9905, Florida  
 1148 Statutes, is amended to read:

1149 400.9905 Definitions.—

1150 (4) (a) "Clinic" means an entity where health care services

1151 are provided to individuals and which tenders charges for  
 1152 reimbursement for such services, including a mobile clinic and a  
 1153 portable equipment provider. As used in this part, the term does  
 1154 not include and the licensure requirements of this part do not  
 1155 apply to:

1156 1.~~(a)~~ Entities licensed or registered by the state under  
 1157 chapter 395; entities licensed or registered by the state and  
 1158 providing only health care services within the scope of services  
 1159 authorized under their respective licenses under ss. 383.30-  
 1160 383.332, chapter 390, chapter 394, chapter 397, this chapter  
 1161 except part X, chapter 429, chapter 463, chapter 465, chapter  
 1162 466, chapter 478, chapter 484, or chapter 651; end-stage renal  
 1163 disease providers authorized under 42 C.F.R. part 405, subpart  
 1164 U; providers certified under 42 C.F.R. part 485, subpart B or  
 1165 subpart H; providers certified by the Centers for Medicare and  
 1166 Medicaid Services under the federal Clinical Laboratory  
 1167 Improvement Amendments and the federal rules adopted thereunder;  
 1168 or any entity that provides neonatal or pediatric hospital-based  
 1169 health care services or other health care services by licensed  
 1170 practitioners solely within a hospital licensed under chapter  
 1171 395.

1172 2.~~(b)~~ Entities that own, directly or indirectly, entities  
 1173 licensed or registered by the state pursuant to chapter 395;  
 1174 entities that own, directly or indirectly, entities licensed or  
 1175 registered by the state and providing only health care services

1176 within the scope of services authorized pursuant to their  
 1177 respective licenses under ss. 383.30-383.332, chapter 390,  
 1178 chapter 394, chapter 397, this chapter except part X, chapter  
 1179 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter  
 1180 484, or chapter 651; end-stage renal disease providers  
 1181 authorized under 42 C.F.R. part 405, subpart U; providers  
 1182 certified under 42 C.F.R. part 485, subpart B or subpart H;  
 1183 providers certified by the Centers for Medicare and Medicaid  
 1184 Services under the federal Clinical Laboratory Improvement  
 1185 Amendments and the federal rules adopted thereunder; or any  
 1186 entity that provides neonatal or pediatric hospital-based health  
 1187 care services by licensed practitioners solely within a hospital  
 1188 licensed under chapter 395.

1189 3.~~(e)~~ Entities that are owned, directly or indirectly, by  
 1190 an entity licensed or registered by the state pursuant to  
 1191 chapter 395; entities that are owned, directly or indirectly, by  
 1192 an entity licensed or registered by the state and providing only  
 1193 health care services within the scope of services authorized  
 1194 pursuant to their respective licenses under ss. 383.30-383.332,  
 1195 chapter 390, chapter 394, chapter 397, this chapter except part  
 1196 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter  
 1197 478, chapter 484, or chapter 651; end-stage renal disease  
 1198 providers authorized under 42 C.F.R. part 405, subpart U;  
 1199 providers certified under 42 C.F.R. part 485, subpart B or  
 1200 subpart H; providers certified by the Centers for Medicare and

1201 Medicaid Services under the federal Clinical Laboratory  
 1202 Improvement Amendments and the federal rules adopted thereunder;  
 1203 or any entity that provides neonatal or pediatric hospital-based  
 1204 health care services by licensed practitioners solely within a  
 1205 hospital under chapter 395.

1206 4.~~(d)~~ Entities that are under common ownership, directly  
 1207 or indirectly, with an entity licensed or registered by the  
 1208 state pursuant to chapter 395; entities that are under common  
 1209 ownership, directly or indirectly, with an entity licensed or  
 1210 registered by the state and providing only health care services  
 1211 within the scope of services authorized pursuant to their  
 1212 respective licenses under ss. 383.30-383.332, chapter 390,  
 1213 chapter 394, chapter 397, this chapter except part X, chapter  
 1214 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter  
 1215 484, or chapter 651; end-stage renal disease providers  
 1216 authorized under 42 C.F.R. part 405, subpart U; providers  
 1217 certified under 42 C.F.R. part 485, subpart B or subpart H;  
 1218 providers certified by the Centers for Medicare and Medicaid  
 1219 Services under the federal Clinical Laboratory Improvement  
 1220 Amendments and the federal rules adopted thereunder; or any  
 1221 entity that provides neonatal or pediatric hospital-based health  
 1222 care services by licensed practitioners solely within a hospital  
 1223 licensed under chapter 395.

1224 5.~~(e)~~ An entity that is exempt from federal taxation under  
 1225 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan

1226 under 26 U.S.C. s. 409 that has a board of trustees at least  
 1227 two-thirds of which are Florida-licensed health care  
 1228 practitioners and provides only physical therapy services under  
 1229 physician orders, any community college or university clinic,  
 1230 and any entity owned or operated by the federal or state  
 1231 government, including agencies, subdivisions, or municipalities  
 1232 thereof.

1233 6.~~(f)~~ A sole proprietorship, group practice, partnership,  
 1234 or corporation that provides health care services by physicians  
 1235 covered by s. 627.419, that is directly supervised by one or  
 1236 more of such physicians, and that is wholly owned by one or more  
 1237 of those physicians or by a physician and the spouse, parent,  
 1238 child, or sibling of that physician.

1239 7.~~(g)~~ A sole proprietorship, group practice, partnership,  
 1240 or corporation that provides health care services by licensed  
 1241 health care practitioners under chapter 457, chapter 458,  
 1242 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
 1243 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
 1244 chapter 490, chapter 491, or part I, part III, part X, part  
 1245 XIII, or part XIV of chapter 468, or s. 464.012, and that is  
 1246 wholly owned by one or more licensed health care practitioners,  
 1247 or the licensed health care practitioners set forth in this  
 1248 subparagraph ~~paragraph~~ and the spouse, parent, child, or sibling  
 1249 of a licensed health care practitioner if one of the owners who  
 1250 is a licensed health care practitioner is supervising the

1251 business activities and is legally responsible for the entity's  
 1252 compliance with all federal and state laws. However, a health  
 1253 care practitioner may not supervise services beyond the scope of  
 1254 the practitioner's license, except that, for the purposes of  
 1255 this part, a clinic owned by a licensee in s. 456.053(3)(b)  
 1256 which provides only services authorized pursuant to s.  
 1257 456.053(3)(b) may be supervised by a licensee specified in s.  
 1258 456.053(3)(b).

1259 8.~~(h)~~ Clinical facilities affiliated with an accredited  
 1260 medical school at which training is provided for medical  
 1261 students, residents, or fellows.

1262 9.~~(i)~~ Entities that provide only oncology or radiation  
 1263 therapy services by physicians licensed under chapter 458 or  
 1264 chapter 459 or entities that provide oncology or radiation  
 1265 therapy services by physicians licensed under chapter 458 or  
 1266 chapter 459 which are owned by a corporation whose shares are  
 1267 publicly traded on a recognized stock exchange.

1268 10.~~(j)~~ Clinical facilities affiliated with a college of  
 1269 chiropractic accredited by the Council on Chiropractic Education  
 1270 at which training is provided for chiropractic students.

1271 11.~~(k)~~ Entities that provide licensed practitioners to  
 1272 staff emergency departments or to deliver anesthesia services in  
 1273 facilities licensed under chapter 395 and that derive at least  
 1274 90 percent of their gross annual revenues from the provision of  
 1275 such services. Entities claiming an exemption from licensure

1276 under this subparagraph ~~paragraph~~ must provide documentation  
 1277 demonstrating compliance.

1278 12.~~(l)~~ Orthotic, prosthetic, pediatric cardiology, or  
 1279 perinatology clinical facilities or anesthesia clinical  
 1280 facilities that are not otherwise exempt under subparagraph 1.  
 1281 or subparagraph 11. ~~paragraph (a) or paragraph (k)~~ and that are  
 1282 a publicly traded corporation or are wholly owned, directly or  
 1283 indirectly, by a publicly traded corporation. As used in this  
 1284 subparagraph ~~paragraph~~, a publicly traded corporation is a  
 1285 corporation that issues securities traded on an exchange  
 1286 registered with the United States Securities and Exchange  
 1287 Commission as a national securities exchange.

1288 13.~~(m)~~ Entities that are owned by a corporation that has  
 1289 \$250 million or more in total annual sales of health care  
 1290 services provided by licensed health care practitioners where  
 1291 one or more of the persons responsible for the operations of the  
 1292 entity is a health care practitioner who is licensed in this  
 1293 state and who is responsible for supervising the business  
 1294 activities of the entity and is responsible for the entity's  
 1295 compliance with state law for purposes of this part.

1296 14.~~(n)~~ Entities that employ 50 or more licensed health  
 1297 care practitioners licensed under chapter 458 or chapter 459  
 1298 where the billing for medical services is under a single tax  
 1299 identification number. The application for exemption under this  
 1300 subsection must include ~~shall contain information that includes~~

1301 the name, residence, and business address and telephone ~~phone~~  
 1302 number of the entity that owns the practice; a complete list of  
 1303 the names and contact information of all the officers and  
 1304 directors of the corporation; the name, residence address,  
 1305 business address, and medical license number of each licensed  
 1306 Florida health care practitioner employed by the entity; the  
 1307 corporate tax identification number of the entity seeking an  
 1308 exemption; a listing of health care services to be provided by  
 1309 the entity at the health care clinics owned or operated by the  
 1310 entity; and a certified statement prepared by an independent  
 1311 certified public accountant which states that the entity and the  
 1312 health care clinics owned or operated by the entity have not  
 1313 received payment for health care services under medical payments  
 1314 ~~personal injury protection~~ insurance coverage for the preceding  
 1315 year. If the agency determines that an entity that ~~which~~ is  
 1316 exempt under this subsection has received payments for medical  
 1317 services under medical payments ~~personal injury protection~~  
 1318 insurance coverage, the agency may deny or revoke the exemption  
 1319 from licensure under this subsection.

1320 (b) Notwithstanding paragraph (a) ~~this subsection~~, an  
 1321 entity is ~~shall be~~ deemed a clinic and must be licensed under  
 1322 this part in order to receive medical payments coverage  
 1323 reimbursement under s. 627.7265 unless the entity is: the  
 1324 ~~Florida Motor Vehicle No-Fault Law, ss. 627.730-627.7405, unless~~  
 1325 ~~exempted under s. 627.736(5)(h).~~

1326 1. Wholly owned by a physician licensed under chapter 458  
 1327 or chapter 459, or by the physician and the spouse, parent,  
 1328 child, or sibling of the physician;

1329 2. Wholly owned by a dentist licensed under chapter 466,  
 1330 or by the dentist and the spouse, parent, child, or sibling of  
 1331 the dentist;

1332 3. Wholly owned by a chiropractic physician licensed under  
 1333 chapter 460, or by the chiropractic physician and the spouse,  
 1334 parent, child, or sibling of the chiropractic physician;

1335 4. A hospital or ambulatory surgical center licensed under  
 1336 chapter 395;

1337 5. An entity that wholly owns or is wholly owned, directly  
 1338 or indirectly, by a hospital or hospitals licensed under chapter  
 1339 395;

1340 6. A clinical facility affiliated with an accredited  
 1341 medical school at which training is provided for medical  
 1342 students, residents, or fellows;

1343 7. Certified under 42 C.F.R. part 485, subpart H; or

1344 8. Owned by a publicly traded corporation, either directly  
 1345 or indirectly through its subsidiaries, which has \$250 million  
 1346 or more in total annual sales of health care services provided  
 1347 by licensed health care practitioners, if one or more of the  
 1348 persons responsible for the operations of the entity are health  
 1349 care practitioners who are licensed in this state and are  
 1350 responsible for supervising the business activities of the

1351 entity and the entity's compliance with state law for purposes  
 1352 of this subsection.

1353 Section 27. Subsection (5) of section 400.991, Florida  
 1354 Statutes, is amended to read:

1355 400.991 License requirements; background screenings;  
 1356 prohibitions.—

1357 (5) All agency forms for licensure application or  
 1358 exemption from licensure under this part must contain the  
 1359 following statement:

1360  
 1361 INSURANCE FRAUD NOTICE.—A person commits a fraudulent  
 1362 insurance act, as defined in s. 626.989, Florida  
 1363 Statutes, if the person ~~who~~ knowingly submits a false,  
 1364 misleading, or fraudulent application or other  
 1365 document when applying for licensure as a health care  
 1366 clinic, seeking an exemption from licensure as a  
 1367 health care clinic, or demonstrating compliance with  
 1368 part X of chapter 400, Florida Statutes, with the  
 1369 intent to use the license, exemption from licensure,  
 1370 or demonstration of compliance to provide services or  
 1371 seek reimbursement under a motor vehicle liability  
 1372 insurance policy's medical payments coverage ~~the~~  
 1373 ~~Florida Motor Vehicle No-Fault Law, commits a~~  
 1374 ~~fraudulent insurance act, as defined in s. 626.989,~~  
 1375 ~~Florida Statutes.~~ A person who presents a claim for

1376 benefits under medical payments coverage, ~~personal~~  
 1377 ~~injury protection benefits~~ knowing that the payee  
 1378 knowingly submitted such health care clinic  
 1379 application or document, commits insurance fraud, as  
 1380 defined in s. 817.234, Florida Statutes.  
 1381 Section 28. Paragraph (g) of subsection (1) of section  
 1382 400.9935, Florida Statutes, is amended to read:  
 1383 400.9935 Clinic responsibilities.—  
 1384 (1) Each clinic shall appoint a medical director or clinic  
 1385 director who shall agree in writing to accept legal  
 1386 responsibility for the following activities on behalf of the  
 1387 clinic. The medical director or the clinic director shall:  
 1388 (g) Conduct systematic reviews of clinic billings to  
 1389 ensure that the billings are not fraudulent or unlawful. Upon  
 1390 discovery of an unlawful charge, the medical director or clinic  
 1391 director shall take immediate corrective action. If the clinic  
 1392 performs only the technical component of magnetic resonance  
 1393 imaging, static radiographs, computed tomography, or positron  
 1394 emission tomography, and provides the professional  
 1395 interpretation of such services, in a fixed facility that is  
 1396 accredited by a national accrediting organization that is  
 1397 approved by the Centers for Medicare and Medicaid Services for  
 1398 magnetic resonance imaging and advanced diagnostic imaging  
 1399 services and if, in the preceding quarter, the percentage of  
 1400 scans performed by that clinic which was billed to motor vehicle

1401 ~~all personal injury protection~~ insurance carriers under medical  
 1402 payments coverage was less than 15 percent, the chief financial  
 1403 officer of the clinic may, in a written acknowledgment provided  
 1404 to the agency, assume the responsibility for the conduct of the  
 1405 systematic reviews of clinic billings to ensure that the  
 1406 billings are not fraudulent or unlawful.

1407 Section 29. Subsection (28) of section 409.901, Florida  
 1408 Statutes, is amended to read:

1409 409.901 Definitions; ss. 409.901-409.920.—As used in ss.  
 1410 409.901-409.920, except as otherwise specifically provided, the  
 1411 term:

1412 (28) "Third-party benefit" means any benefit that is or  
 1413 may be available at any time through contract, court award,  
 1414 judgment, settlement, agreement, or any arrangement between a  
 1415 third party and any person or entity, including, without  
 1416 limitation, a Medicaid recipient, a provider, another third  
 1417 party, an insurer, or the agency, for any Medicaid-covered  
 1418 injury, illness, goods, or services, including costs of medical  
 1419 services related thereto, for bodily ~~personal~~ injury or for  
 1420 death of the recipient, but specifically excluding ~~policies of~~  
 1421 life insurance policies on the recipient, unless available under  
 1422 terms of the policy to pay medical expenses before ~~prior to~~  
 1423 death. The term includes, without limitation, collateral, as  
 1424 defined in this section;; health insurance;; any benefit under a  
 1425 health maintenance organization, a preferred provider

1426 arrangement, a prepaid health clinic, liability insurance,  
 1427 uninsured motorist insurance, or medical payments coverage; or  
 1428 ~~personal injury protection coverage,~~ medical benefits under  
 1429 workers' compensation, and any obligation under law or equity to  
 1430 provide medical support.

1431 Section 30. Paragraph (f) of subsection (11) of section  
 1432 409.910, Florida Statutes, is amended to read:

1433 409.910 Responsibility for payments on behalf of Medicaid-  
 1434 eligible persons when other parties are liable.—

1435 (11) The agency may, as a matter of right, in order to  
 1436 enforce its rights under this section, institute, intervene in,  
 1437 or join any legal or administrative proceeding in its own name  
 1438 in one or more of the following capacities: individually, as  
 1439 subrogee of the recipient, as assignee of the recipient, or as  
 1440 lienholder of the collateral.

1441 (f) Notwithstanding any provision in this section to the  
 1442 contrary, in the event of an action in tort against a third  
 1443 party in which the recipient or his or her legal representative  
 1444 is a party which results in a judgment, award, or settlement  
 1445 from a third party, the amount recovered shall be distributed as  
 1446 follows:

1447 1. After attorney ~~attorney's~~ fees and taxable costs as  
 1448 defined by the Florida Rules of Civil Procedure, one-half of the  
 1449 remaining recovery shall be paid to the agency up to the total  
 1450 amount of medical assistance provided by Medicaid.

1451           2. The remaining amount of the recovery shall be paid to  
1452 the recipient.

1453           3. For purposes of calculating the agency's recovery of  
1454 medical assistance benefits paid, the fee for services of an  
1455 attorney retained by the recipient or his or her legal  
1456 representative shall be calculated at 25 percent of the  
1457 judgment, award, or settlement.

1458           4. Notwithstanding any other provision of this section to  
1459 the contrary, the agency shall be entitled to all medical  
1460 coverage benefits up to the total amount of medical assistance  
1461 provided by Medicaid. For purposes of this paragraph, the term  
1462 "medical coverage" means any benefits under health insurance, a  
1463 health maintenance organization, a preferred provider  
1464 arrangement, or a prepaid health clinic, and the portion of  
1465 benefits designated for medical payments under ~~coverage for~~  
1466 workers' compensation coverage, motor vehicle insurance  
1467 coverage, personal-injury protection, and casualty coverage.

1468           Section 31. Paragraph (k) of subsection (2) of section  
1469 456.057, Florida Statutes, is amended to read:

1470           456.057 Ownership and control of patient records; report  
1471 or copies of records to be furnished; disclosure of  
1472 information.—

1473           (2) As used in this section, the terms "records owner,"  
1474 "health care practitioner," and "health care practitioner's  
1475 employer" do not include any of the following persons or

1476 entities; furthermore, the following persons or entities are not  
 1477 authorized to acquire or own medical records, but are authorized  
 1478 under the confidentiality and disclosure requirements of this  
 1479 section to maintain those documents required by the part or  
 1480 chapter under which they are licensed or regulated:

1481 (k) Persons or entities practicing under s. 627.7265 ~~or~~  
 1482 ~~627.736(7)~~.

1483 Section 32. Paragraphs (ee) and (ff) of subsection (1) of  
 1484 section 456.072, Florida Statutes, are amended to read:

1485 456.072 Grounds for discipline; penalties; enforcement.—

1486 (1) The following acts shall constitute grounds for which  
 1487 the disciplinary actions specified in subsection (2) may be  
 1488 taken:

1489 (ee) With respect to making a medical payments coverage  
 1490 ~~personal injury protection~~ claim under s. 627.7265 ~~as required~~  
 1491 ~~by s. 627.736~~, intentionally submitting a claim, statement, or  
 1492 bill that has been upcoded. As used in this paragraph, the term  
 1493 "upcoded" means an action that submits a billing code that would  
 1494 result in a greater payment amount than would be paid using a  
 1495 billing code that accurately describes the services performed.  
 1496 The term does not include an otherwise lawful bill by a magnetic  
 1497 resonance imaging facility, which globally combines both  
 1498 technical and professional components, if the amount of the  
 1499 global bill is not more than the components if billed  
 1500 separately; however, payment of such a bill constitutes payment

1501 in full for all components of such service ~~"unpeered" as defined~~  
 1502 ~~in s. 627.732.~~

1503 (ff) With respect to making a medical payments coverage  
 1504 ~~personal injury protection~~ claim as required under s. 627.7265  
 1505 ~~by s. 627.736~~, intentionally submitting a claim, statement, or  
 1506 bill for payment of services that were not rendered.

1507 Section 33. Paragraphs (i) and (o) of subsection (1) of  
 1508 section 626.9541, Florida Statutes, are amended to read:

1509 626.9541 Unfair methods of competition and unfair or  
 1510 deceptive acts or practices defined.-

1511 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
 1512 ACTS.-The following are defined as unfair methods of competition  
 1513 and unfair or deceptive acts or practices:

1514 (i) *Unfair claim settlement practices.-*

1515 1. Attempting to settle claims on the basis of an  
 1516 application, when serving as a binder or intended to become a  
 1517 part of the policy, or any other material document which was  
 1518 altered without notice to, or knowledge or consent of, the  
 1519 insured;

1520 2. A material misrepresentation made to an insured or any  
 1521 other person having an interest in the proceeds payable under  
 1522 such contract or policy, for the purpose and with the intent of  
 1523 effecting settlement of such claims, loss, or damage under such  
 1524 contract or policy on less favorable terms than those provided  
 1525 in, and contemplated by, such contract or policy; ~~or~~

- 1526           3. Committing or performing with such frequency as to  
 1527 indicate a general business practice any of the following:
- 1528           a. Failing to adopt and implement standards for the proper  
 1529 investigation of claims;
  - 1530           b. Misrepresenting pertinent facts or insurance policy  
 1531 provisions relating to coverages at issue;
  - 1532           c. Failing to acknowledge and act promptly upon  
 1533 communications with respect to claims;
  - 1534           d. Denying claims without conducting reasonable  
 1535 investigations based upon available information;
  - 1536           e. Failing to affirm or deny full or partial coverage of  
 1537 claims, and, as to partial coverage, the dollar amount or extent  
 1538 of coverage, or failing to provide a written statement that the  
 1539 claim is being investigated, upon the written request of the  
 1540 insured within 30 days after proof-of-loss statements have been  
 1541 completed;
  - 1542           f. Failing to promptly provide a reasonable explanation in  
 1543 writing to the insured of the basis in the insurance policy, in  
 1544 relation to the facts or applicable law, for denial of a claim  
 1545 or for the offer of a compromise settlement;
  - 1546           g. Failing to promptly notify the insured of any  
 1547 additional information necessary for the processing of a claim;  
 1548 or
  - 1549           h. Failing to clearly explain the nature of the requested  
 1550 information and the reasons why such information is necessary.

1551 ~~i. Failing to pay personal injury protection insurance~~  
 1552 ~~claims within the time periods required by s. 627.736(4)(b). The~~  
 1553 ~~office may order the insurer to pay restitution to a~~  
 1554 ~~policyholder, medical provider, or other claimant, including~~  
 1555 ~~interest at a rate consistent with the amount set forth in s.~~  
 1556 ~~55.03(1), for the time period within which an insurer fails to~~  
 1557 ~~pay claims as required by law. Restitution is in addition to any~~  
 1558 ~~other penalties allowed by law, including, but not limited to,~~  
 1559 ~~the suspension of the insurer's certificate of authority.~~

1560 4. Failing to pay undisputed amounts of partial or full  
 1561 benefits owed under first-party property insurance policies  
 1562 within 90 days after an insurer receives notice of a residential  
 1563 property insurance claim, determines the amounts of partial or  
 1564 full benefits, and agrees to coverage, unless payment of the  
 1565 undisputed benefits is prevented by an act of God, prevented by  
 1566 the impossibility of performance, or due to actions by the  
 1567 insured or claimant that constitute fraud, lack of cooperation,  
 1568 or intentional misrepresentation regarding the claim for which  
 1569 benefits are owed.

1570 (o) *Illegal dealings in premiums; excess or reduced*  
 1571 *charges for insurance.-*

1572 1. Knowingly collecting any sum as a premium or charge for  
 1573 insurance, which is not then provided, or is not in due course  
 1574 to be provided, subject to acceptance of the risk by the  
 1575 insurer, by an insurance policy issued by an insurer as

1576 permitted by this code.

1577         2. Knowingly collecting as a premium or charge for  
 1578 insurance any sum in excess of or less than the premium or  
 1579 charge applicable to such insurance, in accordance with the  
 1580 applicable classifications and rates as filed with and approved  
 1581 by the office, and as specified in the policy; or, in cases when  
 1582 classifications, premiums, or rates are not required by this  
 1583 code to be so filed and approved, premiums and charges collected  
 1584 from a Florida resident in excess of or less than those  
 1585 specified in the policy and as fixed by the insurer.

1586 Notwithstanding any other provision of law, this provision shall  
 1587 not be deemed to prohibit the charging and collection, by  
 1588 surplus lines agents licensed under part VIII of this chapter,  
 1589 of the amount of applicable state and federal taxes, or fees as  
 1590 authorized by s. 626.916(4), in addition to the premium required  
 1591 by the insurer or the charging and collection, by licensed  
 1592 agents, of the exact amount of any discount or other such fee  
 1593 charged by a credit card facility in connection with the use of  
 1594 a credit card, as authorized by subparagraph (q)3., in addition  
 1595 to the premium required by the insurer. This subparagraph shall  
 1596 not be construed to prohibit collection of a premium for a  
 1597 universal life or a variable or indeterminate value insurance  
 1598 policy made in accordance with the terms of the contract.

1599         3.a. Imposing or requesting an additional premium for  
 1600 bodily injury liability coverage, property damage liability

1601 coverage ~~a policy of motor vehicle liability, personal injury~~  
 1602 ~~protection,~~ medical payments coverage ~~payment,~~ or collision  
 1603 coverage in a motor vehicle liability insurance policy ~~insurance~~  
 1604 ~~or any combination thereof~~ or refusing to renew the policy  
 1605 solely because the insured was involved in a motor vehicle  
 1606 accident unless the insurer's file contains information from  
 1607 which the insurer in good faith determines that the insured was  
 1608 substantially at fault in the accident.

1609       b. An insurer which imposes and collects such a surcharge  
 1610 or which refuses to renew such policy shall, in conjunction with  
 1611 the notice of premium due or notice of nonrenewal, notify the  
 1612 named insured that he or she is entitled to reimbursement of  
 1613 such amount or renewal of the policy under the conditions listed  
 1614 below and will subsequently reimburse him or her or renew the  
 1615 policy, if the named insured demonstrates that the operator  
 1616 involved in the accident was:

- 1617           (I) Lawfully parked;
- 1618           (II) Reimbursed by, or on behalf of, a person responsible  
 1619 for the accident or has a judgment against such person;
- 1620           (III) Struck in the rear by another vehicle headed in the  
 1621 same direction and was not convicted of a moving traffic  
 1622 violation in connection with the accident;
- 1623           (IV) Hit by a "hit-and-run" driver, if the accident was  
 1624 reported to the proper authorities within 24 hours after  
 1625 discovering the accident;

1626 (V) Not convicted of a moving traffic violation in  
 1627 connection with the accident, but the operator of the other  
 1628 automobile involved in such accident was convicted of a moving  
 1629 traffic violation;

1630 (VI) Finally adjudicated not to be liable by a court of  
 1631 competent jurisdiction;

1632 (VII) In receipt of a traffic citation which was dismissed  
 1633 or nolle prossed; or

1634 (VIII) Not at fault as evidenced by a written statement  
 1635 from the insured establishing facts demonstrating lack of fault  
 1636 which are not rebutted by information in the insurer's file from  
 1637 which the insurer in good faith determines that the insured was  
 1638 substantially at fault.

1639 c. In addition to the other provisions of this  
 1640 subparagraph, an insurer may not fail to renew a policy if the  
 1641 insured has had only one accident in which he or she was at  
 1642 fault within the current 3-year period. However, an insurer may  
 1643 nonrenew a policy for reasons other than accidents in accordance  
 1644 with s. 627.728. This subparagraph does not prohibit nonrenewal  
 1645 of a policy under which the insured has had three or more  
 1646 accidents, regardless of fault, during the most recent 3-year  
 1647 period.

1648 4. Imposing or requesting an additional premium for, or  
 1649 refusing to renew, a policy for motor vehicle insurance solely  
 1650 because the insured committed a noncriminal traffic infraction

1651 as described in s. 318.14 unless the infraction is:

1652 a. A second infraction committed within an 18-month  
 1653 period, or a third or subsequent infraction committed within a  
 1654 36-month period.

1655 b. A violation of s. 316.183, when such violation is a  
 1656 result of exceeding the lawful speed limit by more than 15 miles  
 1657 per hour.

1658 5. Upon the request of the insured, the insurer and  
 1659 licensed agent shall supply to the insured the complete proof of  
 1660 fault or other criteria which justifies the additional charge or  
 1661 cancellation.

1662 6. No insurer shall impose or request an additional  
 1663 premium for motor vehicle insurance, cancel or refuse to issue a  
 1664 policy, or refuse to renew a policy because the insured or the  
 1665 applicant is a handicapped or physically disabled person, so  
 1666 long as such handicap or physical disability does not  
 1667 substantially impair such person's mechanically assisted driving  
 1668 ability.

1669 7. No insurer may cancel or otherwise terminate any  
 1670 insurance contract or coverage, or require execution of a  
 1671 consent to rate endorsement, during the stated policy term for  
 1672 the purpose of offering to issue, or issuing, a similar or  
 1673 identical contract or coverage to the same insured with the same  
 1674 exposure at a higher premium rate or continuing an existing  
 1675 contract or coverage with the same exposure at an increased

1676 premium.

1677 8. No insurer may issue a nonrenewal notice on any  
1678 insurance contract or coverage, or require execution of a  
1679 consent to rate endorsement, for the purpose of offering to  
1680 issue, or issuing, a similar or identical contract or coverage  
1681 to the same insured at a higher premium rate or continuing an  
1682 existing contract or coverage at an increased premium without  
1683 meeting any applicable notice requirements.

1684 9. No insurer shall, with respect to premiums charged for  
1685 motor vehicle insurance, unfairly discriminate solely on the  
1686 basis of age, sex, marital status, or scholastic achievement.

1687 10. Imposing or requesting an additional premium for motor  
1688 vehicle comprehensive or uninsured motorist coverage solely  
1689 because the insured was involved in a motor vehicle accident or  
1690 was convicted of a moving traffic violation.

1691 11. No insurer shall cancel or issue a nonrenewal notice  
1692 on any insurance policy or contract without complying with any  
1693 applicable cancellation or nonrenewal provision required under  
1694 the Florida Insurance Code.

1695 12. No insurer shall impose or request an additional  
1696 premium, cancel a policy, or issue a nonrenewal notice on any  
1697 insurance policy or contract because of any traffic infraction  
1698 when adjudication has been withheld and no points have been  
1699 assessed pursuant to s. 318.14(9) and (10). However, this  
1700 subparagraph does not apply to traffic infractions involving

1701 accidents in which the insurer has incurred a loss due to the  
 1702 fault of the insured.

1703 Section 34. Paragraph (a) of subsection (1) of section  
 1704 626.989, Florida Statutes, is amended to read:

1705 626.989 Investigation by department or Division of  
 1706 Investigative and Forensic Services; compliance; immunity;  
 1707 confidential information; reports to division; division  
 1708 investigator's power of arrest.-

1709 (1) For the purposes of this section:

1710 (a) A person commits a "fraudulent insurance act" if the  
 1711 person:

1712 1. Knowingly and with intent to defraud presents, causes  
 1713 to be presented, or prepares with knowledge or belief that it  
 1714 will be presented, to or by an insurer, self-insurer, self-  
 1715 insurance fund, servicing corporation, purported insurer,  
 1716 broker, or any agent thereof, any written statement as part of,  
 1717 or in support of, an application for the issuance of, or the  
 1718 rating of, any insurance policy, or a claim for payment or other  
 1719 benefit pursuant to any insurance policy, which the person knows  
 1720 to contain materially false information concerning any fact  
 1721 material thereto or if the person conceals, for the purpose of  
 1722 misleading another, information concerning any fact material  
 1723 thereto.

1724 2. Knowingly submits:

1725 a. A false, misleading, or fraudulent application or other

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1726 document when applying for licensure as a health care clinic,  
1727 seeking an exemption from licensure as a health care clinic, or  
1728 demonstrating compliance with part X of chapter 400 with an  
1729 intent to use the license, exemption from licensure, or  
1730 demonstration of compliance to provide services or seek  
1731 reimbursement under a motor vehicle liability insurance policy's  
1732 medical payments coverage ~~the Florida Motor Vehicle No-Fault~~  
1733 ~~Law.~~

1734 b. A claim for payment or other benefit under medical  
1735 payments coverage ~~pursuant to a personal injury protection~~  
1736 ~~insurance policy under the Florida Motor Vehicle No-Fault Law~~ if  
1737 the person knows that the payee knowingly submitted a false,  
1738 misleading, or fraudulent application or other document when  
1739 applying for licensure as a health care clinic, seeking an  
1740 exemption from licensure as a health care clinic, or  
1741 demonstrating compliance with part X of chapter 400.

1742 Section 35. Subsection (1) of section 627.06501, Florida  
1743 Statutes, is amended to read:

1744 627.06501 Insurance discounts for certain persons  
1745 completing driver improvement course.-

1746 (1) Any rate, rating schedule, or rating manual for the  
1747 liability, medical payments ~~personal injury protection~~, and  
1748 collision coverages of a motor vehicle insurance policy filed  
1749 with the office may provide for an appropriate reduction in  
1750 premium charges as to such coverages if ~~when~~ the principal

1751 operator on the covered vehicle has successfully completed a  
 1752 driver improvement course approved and certified by the  
 1753 Department of Highway Safety and Motor Vehicles which is  
 1754 effective in reducing crash or violation rates, or both, as  
 1755 determined pursuant to s. 318.1451(5). Any discount, not to  
 1756 exceed 10 percent, used by an insurer is presumed to be  
 1757 appropriate unless credible data demonstrates otherwise.

1758 Section 36. Subsection (15) is added to section 627.0651,  
 1759 Florida Statutes, to read:

1760 627.0651 Making and use of rates for motor vehicle  
 1761 insurance.-

1762 (15) Initial rate filings for motor vehicle liability  
 1763 policies which are submitted to the office on or after January  
 1764 1, 2021, must reflect the financial responsibility requirements  
 1765 in s. 324.022, as amended, and may be approved only through the  
 1766 file and use process under s. 627.0651(1)(a).

1767 Section 37. Subsection (1) of section 627.0652, Florida  
 1768 Statutes, is amended to read:

1769 627.0652 Insurance discounts for certain persons  
 1770 completing safety course.-

1771 (1) Any rates, rating schedules, or rating manuals for the  
 1772 liability, medical payments ~~personal injury protection~~, and  
 1773 collision coverages of a motor vehicle insurance policy filed  
 1774 with the office must ~~shall~~ provide for an appropriate reduction  
 1775 in premium charges as to such coverages if ~~when~~ the principal

1776 operator on the covered vehicle is an insured 55 years of age or  
 1777 older who has successfully completed a motor vehicle accident  
 1778 prevention course approved by the Department of Highway Safety  
 1779 and Motor Vehicles. Any discount used by an insurer is presumed  
 1780 to be appropriate unless credible data demonstrates otherwise.

1781 Section 38. Subsections (1), (3), and (6) of section  
 1782 627.0653, Florida Statutes, are amended to read:

1783 627.0653 Insurance discounts for specified motor vehicle  
 1784 equipment.-

1785 (1) Any rates, rating schedules, or rating manuals for the  
 1786 liability, medical payments ~~personal injury protection~~, and  
 1787 collision coverages of a motor vehicle insurance policy filed  
 1788 with the office must ~~shall~~ provide a premium discount if the  
 1789 insured vehicle is equipped with factory-installed, four-wheel  
 1790 antilock brakes.

1791 (3) Any rates, rating schedules, or rating manuals for  
 1792 ~~personal injury protection coverage and~~ medical payments  
 1793 ~~coverage, if offered,~~ of a motor vehicle insurance policy filed  
 1794 with the office must ~~shall~~ provide a premium discount if the  
 1795 insured vehicle is equipped with one or more air bags that ~~which~~  
 1796 are factory installed.

1797 (6) The Office of Insurance Regulation may approve a  
 1798 premium discount to any rates, rating schedules, or rating  
 1799 manuals for the liability, medical payments ~~personal injury~~  
 1800 ~~protection~~, and collision coverages of a motor vehicle insurance

1801 policy filed with the office if the insured vehicle is equipped  
 1802 with an automated driving system or electronic vehicle collision  
 1803 avoidance technology that is factory installed or a retrofitted  
 1804 system and that complies with National Highway Traffic Safety  
 1805 Administration standards.

1806 Section 39. Section 627.4132, Florida Statutes, is amended  
 1807 to read:

1808 627.4132 Stacking of coverages prohibited.—If an insured  
 1809 or named insured is protected by any type of motor vehicle  
 1810 insurance policy for bodily injury and property damage  
 1811 liability, ~~personal injury protection, or other coverage~~, the  
 1812 policy must ~~shall~~ provide that the insured or named insured is  
 1813 protected only to the extent of the coverage she or he has on  
 1814 the vehicle involved in the accident. However, if none of the  
 1815 insured's or named insured's vehicles are ~~is~~ involved in the  
 1816 accident, coverage is available only to the extent of coverage  
 1817 on any one of the vehicles with applicable coverage. Coverage on  
 1818 any other vehicles may ~~shall~~ not be added to or stacked upon  
 1819 that coverage. This section does not apply:

1820 (1) To uninsured motorist coverage that ~~which~~ is  
 1821 separately governed by s. 627.727.

1822 (2) To reduce the coverage available by reason of  
 1823 insurance policies insuring different named insureds.

1824 Section 40. Section 627.7263, Florida Statutes, is amended  
 1825 to read:

1826           627.7263 Rental and leasing driver's insurance to be  
1827 primary; exception.-

1828           (1) The valid and collectible liability insurance and  
1829 medical payments coverage ~~or personal injury protection~~  
1830 ~~insurance providing coverage~~ for the lessor of a motor vehicle  
1831 for rent or lease is primary unless otherwise stated in at least  
1832 10-point type on the face of the rental or lease agreement. Such  
1833 insurance is primary for the limits of liability ~~and personal~~  
1834 ~~injury protection~~ coverage as required by s. 324.021(7) and the  
1835 medical payments coverage limit specified under s. 627.7265 ~~ss.~~  
1836 ~~324.021(7) and 627.736.~~

1837           (2) If the lessee's coverage is to be primary, the rental  
1838 or lease agreement must contain the following language, in at  
1839 least 10-point type:

1840  
1841           "The valid and collectible liability insurance and  
1842 medical payments coverage ~~personal injury protection~~  
1843 ~~insurance~~ of an ~~any~~ authorized rental or leasing  
1844 driver is primary for the limits of liability ~~and~~  
1845 ~~personal injury protection~~ coverage required under  
1846 section 324.021(7), Florida Statutes, and the medical  
1847 payments coverage limit specified under section  
1848 627.7265 ~~by ss. 324.021(7) and 627.736,~~ Florida  
1849 Statutes."

1850           Section 41. Section 627.7265, Florida Statutes, is created

1851 to read:

1852 627.7265 Motor vehicle insurance; medical payments  
 1853 coverage.-

1854 (1) Medical payments coverage must protect the named  
 1855 insured, resident relatives, persons operating the insured motor  
 1856 vehicle, passengers in the insured motor vehicle, and persons  
 1857 who are struck by the insured motor vehicle and suffer bodily  
 1858 injury while not an occupant of a self-propelled motor vehicle  
 1859 at a limit of at least \$5,000 for medical expense incurred due  
 1860 to bodily injury, sickness, or disease arising out of the  
 1861 ownership, maintenance, or use of a motor vehicle. The coverage  
 1862 must provide an additional death benefit of at least \$5,000.

1863 (a) Before issuing a motor vehicle liability insurance  
 1864 policy that is furnished as proof of financial responsibility  
 1865 under s. 324.031, the insurer must offer medical payments  
 1866 coverage at limits of \$5,000 and \$10,000. The insurer may also  
 1867 offer medical payments coverage at any limit greater than  
 1868 \$5,000.

1869 (b) The medical payments coverage must be offered with an  
 1870 option with no deductible. The insurer may also offer medical  
 1871 payments coverage with a deductible not to exceed \$500.

1872 (c) Each motor vehicle liability insurance policy that is  
 1873 furnished as proof of financial responsibility under s. 324.031  
 1874 is deemed to have:

1875 1. Medical payments coverage to a limit of \$10,000, unless

1876 the insurer obtains the policyholder's written refusal of  
 1877 medical payments coverage or written selection of medical  
 1878 payments coverage at a limit other than \$10,000. The rejection  
 1879 or selection of coverage at a limit other than \$10,000 must be  
 1880 made on a form approved by the office.

1881 2. No medical payments coverage deductible, unless the  
 1882 insurer obtains the policyholder's written selection of a  
 1883 deductible of up to \$500. The selection of a deductible must be  
 1884 made on a form approved by the office.

1885 (d)1. The forms in subparagraphs (c)1. and 2. must fully  
 1886 advise the applicant of the nature of the coverage being  
 1887 rejected or the policy limit or deductible being selected. If  
 1888 the form is signed by a named insured, it is conclusively  
 1889 presumed that there was an informed, knowing rejection of the  
 1890 coverage or election of the policy limit or deductible selected.

1891 2. Unless the policyholder requests in writing the  
 1892 coverage specified in this section, it need not be provided in  
 1893 or supplemental to any other policy that renews, insures,  
 1894 extends, changes, supersedes, or replaces an existing policy if  
 1895 the policyholder has rejected the coverage specified in this  
 1896 section or has selected an alternative coverage limit or  
 1897 deductible. At least annually, the insurer shall provide the  
 1898 policyholder with a notice of the availability of such coverage  
 1899 in a form approved by the office. The notice must be part of,  
 1900 and attached to, the notice of premium and must provide for a

1901 means to allow the insured to request medical payments coverage  
 1902 at the limits and deductibles required to be offered under this  
 1903 section. The notice must be given in a manner approved by the  
 1904 office. Receipt of this notice does not constitute an  
 1905 affirmative waiver of the insured's right to medical payments  
 1906 coverage if the insured has not signed a selection or rejection  
 1907 form.

1908 (e) This section may not be construed to limit any other  
 1909 coverage made available by an insurer.

1910 (2) Upon receiving notice of an accident that is  
 1911 potentially covered by medical payments coverage benefits, the  
 1912 insurer must reserve \$5,000 of medical payments coverage  
 1913 benefits for payment to physicians licensed under chapter 458 or  
 1914 chapter 459 or dentists licensed under chapter 466 who provide  
 1915 emergency services and care, as defined in s. 395.002, or who  
 1916 provide hospital inpatient care. The amount required to be held  
 1917 in reserve may be used only to pay claims from such physicians  
 1918 or dentists until 30 days after the date the insurer receives  
 1919 notice of the accident. After the 30-day period, any amount of  
 1920 the reserve for which the insurer has not received notice of  
 1921 such claims may be used by the insurer to pay other claims. This  
 1922 subsection does not require an insurer to establish a claim  
 1923 reserve for insurance accounting purposes.

1924 (3) An insurer providing medical payments coverage  
 1925 benefits may not have a:

1926        (a) Lien on any recovery in tort by judgment, settlement,  
 1927 or otherwise for medical payments coverage benefits, whether  
 1928 suit has been filed or settlement has been reached without suit;  
 1929 or

1930        (b) Cause of action against a person to whom or for whom  
 1931 medical payments coverage benefits were paid, except when  
 1932 medical payments coverage benefits are paid by reason of fraud  
 1933 the person commits.

1934        (4) An insurer providing medical payments coverage may  
 1935 include provisions in its policy allowing for subrogation for  
 1936 medical payments benefits paid if the expenses giving rise to  
 1937 the payments were caused by the wrongful act or omission of  
 1938 another who is not also an insured under the policy paying the  
 1939 medical payments benefits. However, this subrogation right is  
 1940 inferior to the rights of the injured insured and is available  
 1941 only after all the insured's damages are recovered and the  
 1942 insured is made whole. An insured who obtains a recovery from a  
 1943 third party of the full amount of the damages sustained and  
 1944 delivers a release or satisfaction that impairs a medical  
 1945 payments insurer's subrogation right is liable to the insurer  
 1946 for repayment of medical payments benefits less any expenses of  
 1947 acquiring the recovery, including a prorated share of attorney  
 1948 fees and costs, and shall hold that net recovery in trust to be  
 1949 delivered to the medical payments insurer. The insurer may not  
 1950 include any provision in its policy allowing for subrogation for

1951 any death benefit paid.

1952 Section 42. Subsections (1) and (7) of section 627.727,  
1953 Florida Statutes, are amended to read:

1954 627.727 Motor vehicle insurance; uninsured and  
1955 underinsured vehicle coverage; insolvent insurer protection.—

1956 (1) A ~~No~~ motor vehicle liability insurance policy that  
1957 ~~which~~ provides bodily injury liability coverage may not ~~shall~~ be  
1958 delivered or issued for delivery in this state with respect to  
1959 any specifically insured or identified motor vehicle registered  
1960 or principally garaged in this state, unless uninsured motor  
1961 vehicle coverage is provided therein or supplemental thereto for  
1962 the protection of persons insured thereunder who are legally  
1963 entitled to recover damages from owners or operators of  
1964 uninsured motor vehicles because of bodily injury, sickness, or  
1965 disease, including death, resulting therefrom. However, the  
1966 coverage required under this section is not applicable if ~~when~~,  
1967 or to the extent that, an insured named in the policy makes a  
1968 written rejection of the coverage on behalf of all insureds  
1969 under the policy. If ~~When~~ a motor vehicle is leased for ~~a period~~  
1970 ~~of~~ 1 year or longer and the lessor of such vehicle, by the terms  
1971 of the lease contract, provides liability coverage on the leased  
1972 vehicle, the lessee of such vehicle has ~~shall have~~ the sole  
1973 privilege to reject uninsured motorist coverage or to select  
1974 lower limits than the bodily injury liability limits, regardless  
1975 of whether the lessor is qualified as a self-insurer pursuant to

1976 s. 324.171. Unless an insured, or a lessee having the privilege  
 1977 of rejecting uninsured motorist coverage, requests such coverage  
 1978 or requests higher uninsured motorist limits in writing, the  
 1979 coverage or such higher uninsured motorist limits need not be  
 1980 provided in or supplemental to any other policy that ~~which~~  
 1981 renews, extends, changes, supersedes, or replaces an existing  
 1982 policy with the same bodily injury liability limits when an  
 1983 insured or lessee had rejected the coverage. When an insured or  
 1984 lessee has initially selected limits of uninsured motorist  
 1985 coverage lower than her or his bodily injury liability limits,  
 1986 higher limits of uninsured motorist coverage need not be  
 1987 provided in or supplemental to any other policy that ~~which~~  
 1988 renews, extends, changes, supersedes, or replaces an existing  
 1989 policy with the same bodily injury liability limits unless an  
 1990 insured requests higher uninsured motorist coverage in writing.  
 1991 The rejection or selection of lower limits must ~~shall~~ be made on  
 1992 a form approved by the office. The form must ~~shall~~ fully advise  
 1993 the applicant of the nature of the coverage and must ~~shall~~ state  
 1994 that the coverage is equal to bodily injury liability limits  
 1995 unless lower limits are requested or the coverage is rejected.  
 1996 The heading of the form must ~~shall~~ be in 12-point bold type and  
 1997 must ~~shall~~ state: "You are electing not to purchase certain  
 1998 valuable coverage that ~~which~~ protects you and your family or you  
 1999 are purchasing uninsured motorist limits less than your bodily  
 2000 injury liability limits when you sign this form. Please read

2001 | carefully." If this form is signed by a named insured, it will  
 2002 | be conclusively presumed that there was an informed, knowing  
 2003 | rejection of coverage or election of lower limits on behalf of  
 2004 | all insureds. The insurer shall notify the named insured at  
 2005 | least annually of her or his options as to the coverage required  
 2006 | by this section. Such notice must ~~shall~~ be part of, and attached  
 2007 | to, the notice of premium, must ~~shall~~ provide for a means to  
 2008 | allow the insured to request such coverage, and must ~~shall~~ be  
 2009 | given in a manner approved by the office. Receipt of this notice  
 2010 | does not constitute an affirmative waiver of the insured's right  
 2011 | to uninsured motorist coverage if ~~where~~ the insured has not  
 2012 | signed a selection or rejection form. The coverage described  
 2013 | under this section must ~~shall~~ be over and above, but may ~~shall~~  
 2014 | not duplicate, the benefits available to an insured under any  
 2015 | workers' compensation law, ~~personal injury protection benefits,~~  
 2016 | disability benefits law, or similar law; under any automobile  
 2017 | medical payments ~~expense~~ coverage; under any motor vehicle  
 2018 | liability insurance coverage; or from the owner or operator of  
 2019 | the uninsured motor vehicle or any other person or organization  
 2020 | jointly or severally liable together with such owner or operator  
 2021 | for the accident,<sup>+</sup> and such coverage must ~~shall~~ cover the  
 2022 | difference, if any, between the sum of such benefits and the  
 2023 | damages sustained, up to the maximum amount of such coverage  
 2024 | provided under this section. The amount of coverage available  
 2025 | under this section may ~~shall~~ not be reduced by a setoff against

2026 any coverage, including liability insurance. Such coverage does  
 2027 ~~shall~~ not inure directly or indirectly to the benefit of any  
 2028 workers' compensation or disability benefits carrier or any  
 2029 person or organization qualifying as a self-insurer under any  
 2030 workers' compensation or disability benefits law or similar law.

2031 (7) The legal liability of an uninsured motorist coverage  
 2032 insurer includes ~~does not include~~ damages in tort for pain,  
 2033 suffering, disability or physical impairment, disfigurement,  
 2034 mental anguish, ~~and~~ inconvenience, and the loss of capacity for  
 2035 the enjoyment of life experienced in the past and to be  
 2036 experienced in the future ~~unless the injury or disease is~~  
 2037 ~~described in one or more of paragraphs (a) (d) of s. 627.737(2).~~

2038 Section 43. Subsection (1) and paragraphs (a) and (b) of  
 2039 subsection (2) of section 627.7275, Florida Statutes, are  
 2040 amended to read:

2041 627.7275 Motor vehicle liability.—

2042 (1) A motor vehicle insurance policy ~~providing personal~~  
 2043 ~~injury protection as set forth in s. 627.736 may not be~~  
 2044 delivered or issued for delivery in this state for a ~~with~~  
 2045 ~~respect to any~~ specifically insured or identified motor vehicle  
 2046 registered or principally garaged in this state must provide  
 2047 bodily injury liability coverage and ~~unless the policy also~~  
 2048 ~~provides coverage for~~ property damage liability coverage as  
 2049 required under ~~by~~ s. 324.022.

2050 (2)(a) Insurers writing motor vehicle insurance in this

2051 state shall make available, subject to the insurers' usual  
 2052 underwriting restrictions:

2053 1. Coverage under policies as described in subsection (1)  
 2054 to an applicant for private passenger motor vehicle insurance  
 2055 coverage who is seeking the coverage in order to reinstate the  
 2056 applicant's driving privileges in this state if the driving  
 2057 privileges were revoked or suspended pursuant to s. 316.646 or  
 2058 s. 324.0221 due to the failure of the applicant to maintain  
 2059 required security.

2060 2. Coverage under policies as described in subsection (1),  
 2061 which includes bodily injury ~~also provides~~ liability coverage  
 2062 and property damage liability coverage, ~~for bodily injury,~~  
 2063 ~~death, and property damage arising out of the ownership,~~  
 2064 ~~maintenance, or use of the motor vehicle~~ in an amount not less  
 2065 than the minimum limits required under ~~described in~~ s.  
 2066 324.021(7) or s. 324.023 and which conforms to the requirements  
 2067 of s. 324.151, to an applicant for private passenger motor  
 2068 vehicle insurance coverage who is seeking the coverage in order  
 2069 to reinstate the applicant's driving privileges in this state  
 2070 after such privileges were revoked or suspended under s. 316.193  
 2071 or s. 322.26(2) for driving under the influence.

2072 (b) The policies described in paragraph (a) must ~~shall~~ be  
 2073 issued for at least 6 months and, as to the minimum coverages  
 2074 required under this section, may not be canceled by the insured  
 2075 for any reason or by the insurer after 60 days, during which

2076 period the insurer is completing the underwriting of the policy.  
 2077 After the insurer has completed underwriting the policy, the  
 2078 insurer shall notify the Department of Highway Safety and Motor  
 2079 Vehicles that the policy is in full force and effect and is not  
 2080 cancelable for the remainder of the policy period. A premium  
 2081 must ~~shall~~ be collected and the coverage is in effect for the  
 2082 60-day period during which the insurer is completing the  
 2083 underwriting of the policy, whether or not the person's driver  
 2084 license, motor vehicle tag, and motor vehicle registration are  
 2085 in effect. Once the noncancelable provisions of the policy  
 2086 become effective, the bodily injury liability and property  
 2087 damage liability coverages ~~for bodily injury, property damage,~~  
 2088 ~~and personal injury protection~~ may not be reduced below the  
 2089 minimum limits required under s. 324.021 or s. 324.023 during  
 2090 the policy period.

2091 Section 44. Effective upon this act becoming a law,  
 2092 section 627.7278, Florida Statutes, is created to read:

2093 627.7278 Applicability and construction; notice to  
 2094 policyholders.-

2095 (1) As used in this section, the term "minimum security  
 2096 requirements" means security that enables a person to respond in  
 2097 damages for liability on account of crashes arising out of the  
 2098 ownership, maintenance, or use of a motor vehicle, in the  
 2099 amounts required by s. 324.021(7).

2100 (2) Effective January 1, 2021:

2101 (a) Motor vehicle insurance policies issued or renewed on  
 2102 or after that date may not include personal injury protection.

2103 (b) All persons subject to s. 324.022, s. 324.032, s.  
 2104 627.7415, or s. 627.742 must maintain at least minimum security  
 2105 requirements.

2106 (c) Any new or renewal motor vehicle insurance policy  
 2107 delivered or issued for delivery in this state must provide  
 2108 coverage that complies with minimum security requirements.

2109 (d) An existing motor vehicle insurance policy issued  
 2110 before January 1, 2021, that provides personal injury protection  
 2111 and property damage liability coverage which meets the  
 2112 requirements of s. 324.022 on December 31, 2020, but which does  
 2113 not meet minimum security requirements on or after January 1,  
 2114 2021, is deemed to meet the security requirements of s. 324.022  
 2115 until such policy is renewed, nonrenewed, or canceled on or  
 2116 after January 1, 2021. Sections 400.9905, 400.991, 456.057,  
 2117 456.072, 626.9541(1)(i), 627.7263, 627.727, 627.730-627.7405,  
 2118 627.748, and 817.234, Florida Statutes 2019, remain in full  
 2119 force and effect for motor vehicle accidents covered under a  
 2120 policy issued under the Florida Motor Vehicle No-Fault Law  
 2121 before January 1, 2021, until the policy is renewed, nonrenewed,  
 2122 or canceled on or after January 1, 2021.

2123 (3) Each insurer shall allow each insured who has a new or  
 2124 renewal policy providing personal injury protection which  
 2125 becomes effective before January 1, 2021, and whose policy does

2126 not meet minimum security requirements on or after January 1,  
 2127 2021, to change coverages so as to eliminate personal injury  
 2128 protection and obtain coverage providing minimum security  
 2129 requirements, which shall be effective on or after January 1,  
 2130 2021. The insurer is not required to provide coverage complying  
 2131 with minimum security requirements in such policies if the  
 2132 insured does not pay the required premium, if any, by January 1,  
 2133 2021, or such later date as the insurer may allow. The insurer  
 2134 must also offer each insured medical payments coverage pursuant  
 2135 to s. 627.7265. Any reduction in the premium must be refunded by  
 2136 the insurer. The insurer may not impose on the insured an  
 2137 additional fee or charge that applies solely to a change in  
 2138 coverage; however, the insurer may charge an additional required  
 2139 premium that is actuarially indicated.

2140 (4) By September 1, 2020, each motor vehicle insurer shall  
 2141 provide notice of this section to each motor vehicle  
 2142 policyholder who is subject to this section. The notice is  
 2143 subject to approval by the office and must clearly inform the  
 2144 policyholder that:

2145 (a) The Florida Motor Vehicle No-Fault Law is repealed  
 2146 effective January 1, 2021, and that on or after that date, the  
 2147 insured is no longer required to maintain personal injury  
 2148 protection insurance coverage, that personal injury protection  
 2149 coverage is no longer available for purchase in this state, and  
 2150 that all new or renewal policies issued on or after that date

2151 will not contain that coverage.

2152 (b) Effective January 1, 2021, a person subject to the  
 2153 financial responsibility requirements of s. 324.022 must  
 2154 maintain minimum security requirements that enable the person to  
 2155 respond to damages for liability on account of accidents arising  
 2156 out of the use of a motor vehicle in the following amounts:

2157 1. Twenty-five thousand dollars for bodily injury to, or  
 2158 the death of, one person in any one crash and, subject to such  
 2159 limits for one person, in the amount of \$50,000 for bodily  
 2160 injury to, or the death of, two or more persons in any one  
 2161 crash; and

2162 2. Ten thousand dollars for damage to, or destruction of,  
 2163 the property of others in any one crash.

2164 (c) Bodily injury liability coverage protects the insured,  
 2165 up to the coverage limits, against loss if the insured is  
 2166 legally responsible for the death of or bodily injury to others  
 2167 in a motor vehicle accident.

2168 (d) Effective January 1, 2021, each policyholder of motor  
 2169 vehicle liability insurance purchased as proof of financial  
 2170 responsibility must be offered medical payments coverage  
 2171 benefits that comply with s. 627.7265. The insurer must offer  
 2172 medical payments coverage at limits of \$5,000 and \$10,000  
 2173 without a deductible. The insurer may also offer medical  
 2174 payments coverage at other limits greater than \$5,000, and may  
 2175 offer coverage with a deductible of up to \$500. Medical payments

2176 coverage pays covered medical expenses incurred due to bodily  
 2177 injury, sickness, or disease arising out of the ownership,  
 2178 maintenance, or use of the motor vehicle, up to the limits of  
 2179 such coverage, for injuries sustained in a motor vehicle crash  
 2180 by the named insured, resident relatives, persons operating the  
 2181 insured motor vehicle, passengers in the insured motor vehicle,  
 2182 and persons who are struck by the insured motor vehicle and  
 2183 suffer bodily injury while not an occupant of a self-propelled  
 2184 motor vehicle as provided in s. 627.7265. Medical payments  
 2185 coverage also provides a death benefit of at least \$5,000.

2186 (e) The policyholder may obtain uninsured and underinsured  
 2187 motorist coverage, which provides benefits, up to the limits of  
 2188 such coverage, to a policyholder or other insured entitled to  
 2189 recover damages for bodily injury, sickness, disease, or death  
 2190 resulting from a motor vehicle accident with an uninsured or  
 2191 underinsured owner or operator of a motor vehicle.

2192 (f) If the policyholder's new or renewal motor vehicle  
 2193 insurance policy is effective before January 1, 2021, and  
 2194 contains personal injury protection and property damage  
 2195 liability coverage as required by state law before January 1,  
 2196 2021, but does not meet minimum security requirements on or  
 2197 after January 1, 2021, the policy is deemed to meet minimum  
 2198 security requirements until it is renewed, nonrenewed, or  
 2199 canceled on or after January 1, 2021.

2200 (g) A policyholder whose new or renewal policy becomes

2201 effective before January 1, 2021, but does not meet minimum  
 2202 security requirements on or after January 1, 2021, may change  
 2203 coverages under the policy so as to eliminate personal injury  
 2204 protection and to obtain coverage providing minimum security  
 2205 requirements, including bodily injury liability coverage, which  
 2206 are effective on or after January 1, 2021.

2207 (h) If the policyholder has any questions, he or she  
 2208 should contact the person named at the telephone number provided  
 2209 in the notice.

2210 Section 45. Paragraph (a) of subsection (1) of section  
 2211 627.728, Florida Statutes, is amended to read:

2212 627.728 Cancellations; nonrenewals.—

2213 (1) As used in this section, the term:

2214 (a) "Policy" means the bodily injury and property damage  
 2215 liability, ~~personal injury protection~~, medical payments,  
 2216 comprehensive, collision, and uninsured motorist coverage  
 2217 portions of a policy of motor vehicle insurance delivered or  
 2218 issued for delivery in this state:

2219 1. Insuring a natural person as named insured or one or  
 2220 more related individuals who are residents ~~resident~~ of the same  
 2221 household; and

2222 2. Insuring only a motor vehicle of the private passenger  
 2223 type or station wagon type which is not used as a public or  
 2224 livery conveyance for passengers or rented to others; or  
 2225 insuring any other four-wheel motor vehicle having a load

2226 capacity of 1,500 pounds or less which is not used in the  
 2227 occupation, profession, or business of the insured other than  
 2228 farming; other than any policy issued under an automobile  
 2229 insurance assigned risk plan or covering garage, automobile  
 2230 sales agency, repair shop, service station, or public parking  
 2231 place operation hazards.

2232  
 2233 The term "policy" does not include a binder as defined in s.  
 2234 627.420 unless the duration of the binder period exceeds 60  
 2235 days.

2236 Section 46. Subsection (1), paragraph (a) of subsection  
 2237 (5), and subsections (6) and (7) of section 627.7295, Florida  
 2238 Statutes, are amended to read:

2239 627.7295 Motor vehicle insurance contracts.—

2240 (1) As used in this section, the term:

2241 (a) "Policy" means a motor vehicle insurance policy that  
 2242 provides bodily injury liability ~~personal injury protection~~  
 2243 coverage and ~~property damage liability coverage, or both.~~

2244 (b) "Binder" means a binder that provides motor vehicle  
 2245 bodily injury liability coverage ~~personal injury protection~~ and  
 2246 property damage liability coverage.

2247 (5)(a) A licensed general lines agent may charge a per-  
 2248 policy fee of up to ~~not to exceed~~ \$10 to cover the  
 2249 administrative costs of the agent associated with selling the  
 2250 motor vehicle insurance policy if the policy covers only bodily

2251 injury liability coverage ~~personal injury protection coverage as~~  
 2252 ~~provided by s. 627.736~~ and property damage liability coverage as  
 2253 provided by s. 627.7275 and if no other insurance is sold or  
 2254 issued in conjunction with or collateral to the policy. The fee  
 2255 is not ~~considered~~ part of the premium.

2256 (6) If a motor vehicle owner's driver license, license  
 2257 plate, and registration have previously been suspended pursuant  
 2258 to s. 316.646 ~~or s. 627.733~~, an insurer may cancel a new policy  
 2259 only as provided in s. 627.7275.

2260 (7) A policy of private passenger motor vehicle insurance  
 2261 or a binder for such a policy may be initially issued in this  
 2262 state only if, before the effective date of such binder or  
 2263 policy, the insurer or agent has collected from the insured an  
 2264 amount equal to at least 1 month's premium. An insurer, agent,  
 2265 or premium finance company may not, directly or indirectly, take  
 2266 any action that results ~~resulting~~ in the insured paying ~~having~~  
 2267 ~~paid~~ from the insured's own funds an amount less than the 1  
 2268 month's premium required by this subsection. This subsection  
 2269 applies without regard to whether the premium is financed by a  
 2270 premium finance company or is paid pursuant to a periodic  
 2271 payment plan of an insurer or an insurance agent.

2272 (a) This subsection does not apply:  
 2273 1. If an insured or member of the insured's family is  
 2274 renewing or replacing a policy or a binder for such policy  
 2275 written by the same insurer or a member of the same insurer

2276 group. ~~This subsection does not apply~~

2277 2. To an insurer that issues private passenger motor  
 2278 vehicle coverage primarily to active duty or former military  
 2279 personnel or their dependents. ~~This subsection does not apply~~

2280 3. If all policy payments are paid pursuant to a payroll  
 2281 deduction plan, an automatic electronic funds transfer payment  
 2282 plan from the policyholder, or a recurring credit card or debit  
 2283 card agreement with the insurer.

2284 (b) This subsection and subsection (4) do not apply if:

2285 1. All policy payments to an insurer are paid pursuant to  
 2286 an automatic electronic funds transfer payment plan from an  
 2287 agent, a managing general agent, or a premium finance company  
 2288 and if the policy includes, at a minimum, bodily injury  
 2289 liability coverage and ~~personal injury protection pursuant to~~  
 2290 ~~ss. 627.730-627.7405, motor vehicle property damage liability~~  
 2291 coverage pursuant to s. 627.7275; or ~~and bodily injury liability~~  
 2292 ~~in at least the amount of \$10,000 because of bodily injury to,~~  
 2293 ~~or death of, one person in any one accident and in the amount of~~  
 2294 ~~\$20,000 because of bodily injury to, or death of, two or more~~  
 2295 ~~persons in any one accident. This subsection and subsection (4)~~  
 2296 ~~do not apply if~~

2297 2. An insured has had a policy in effect for at least 6  
 2298 months, the insured's agent is terminated by the insurer that  
 2299 issued the policy, and the insured obtains coverage on the  
 2300 policy's renewal date with a new company through the terminated

2301 agent.

2302 Section 47. Section 627.7415, Florida Statutes, is amended  
 2303 to read:

2304 627.7415 Commercial motor vehicles; additional liability  
 2305 insurance coverage.—Beginning January 1, 2021, commercial motor  
 2306 vehicles, as defined in s. 207.002 or s. 320.01, operated upon  
 2307 the roads and highways of this state must ~~shall~~ be insured with  
 2308 the following minimum levels of combined bodily liability  
 2309 insurance and property damage liability insurance in addition to  
 2310 any other insurance requirements:

2311 (1) Sixty ~~Fifty~~ thousand dollars per occurrence for a  
 2312 commercial motor vehicle with a gross vehicle weight of 26,000  
 2313 pounds or more, but less than 35,000 pounds.

2314 (2) One hundred twenty thousand dollars per occurrence for  
 2315 a commercial motor vehicle with a gross vehicle weight of 35,000  
 2316 pounds or more, but less than 44,000 pounds.

2317 (3) Three hundred thousand dollars per occurrence for a  
 2318 commercial motor vehicle with a gross vehicle weight of 44,000  
 2319 pounds or more.

2320 (4) All commercial motor vehicles subject to regulations  
 2321 of the United States Department of Transportation, 49 C.F.R.  
 2322 part 387, subpart A, and as may be hereinafter amended, shall be  
 2323 insured in an amount equivalent to the minimum levels of  
 2324 financial responsibility as set forth in such regulations.

2325

2326 A violation of this section is a noncriminal traffic infraction,  
 2327 punishable as a nonmoving violation as provided in chapter 318.

2328 Section 48. Section 627.747, Florida Statutes, is created  
 2329 to read:

2330 627.747 Named driver exclusion.-

2331 (1) A private passenger motor vehicle policy may exclude  
 2332 an identified individual from the following coverages while the  
 2333 identified individual is operating a motor vehicle, provided  
 2334 that the identified individual is specifically excluded by name  
 2335 on the declarations page or by endorsement, and the policyholder  
 2336 consents in writing to the exclusion:

2337 (a) Property damage liability coverage.

2338 (b) Bodily injury liability coverage.

2339 (c) Uninsured motorist coverage for any damages sustained  
 2340 by the identified excluded individual, if the policyholder has  
 2341 purchased such coverage.

2342 (d) Any coverage the policyholder is not required by law  
 2343 to purchase.

2344 (2) A private passenger motor vehicle policy may not  
 2345 exclude coverage when:

2346 (a) The identified excluded individual is injured while  
 2347 not operating a motor vehicle;

2348 (b) The exclusion is unfairly discriminatory under the  
 2349 Florida Insurance Code, as determined by the office; or

2350 (c) The exclusion is inconsistent with the underwriting

2351 rules filed by the insurer pursuant to s. 627.0651(13)(a).  
 2352 Section 49. Paragraphs (b), (c), and (g) of subsection (7)  
 2353 and paragraphs (a) and (b) of subsection (8) of section 627.748,  
 2354 Florida Statutes, are amended to read:  
 2355 627.748 Transportation network companies.—  
 2356 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER  
 2357 INSURANCE REQUIREMENTS.—  
 2358 (b) The following automobile insurance requirements apply  
 2359 while a participating TNC driver is logged on to the digital  
 2360 network but is not engaged in a prearranged ride:  
 2361 1. Automobile insurance that provides:  
 2362 a. A primary automobile liability coverage of at least  
 2363 \$50,000 for death and bodily injury per person, \$100,000 for  
 2364 death and bodily injury per incident, and \$25,000 for property  
 2365 damage; and  
 2366 b. ~~Personal injury protection benefits that meet the~~  
 2367 ~~minimum coverage amounts required under ss. 627.730-627.7405,~~  
 2368 ~~and~~  
 2369 ~~e.~~ Uninsured and underinsured vehicle coverage as required  
 2370 by s. 627.727.  
 2371 2. The coverage requirements of this paragraph may be  
 2372 satisfied by any of the following:  
 2373 a. Automobile insurance maintained by the TNC driver;  
 2374 b. Automobile insurance maintained by the TNC; or  
 2375 c. A combination of sub-subparagraphs a. and b.

2376 (c) The following automobile insurance requirements apply  
 2377 while a TNC driver is engaged in a prearranged ride:

2378 1. Automobile insurance that provides:

2379 a. A primary automobile liability coverage of at least \$1  
 2380 million for death, bodily injury, and property damage; and

2381 b. ~~Personal injury protection benefits that meet the~~  
 2382 ~~minimum coverage amounts required of a limousine under ss.~~  
 2383 ~~627.730-627.7405; and~~

2384 ~~e.~~ Uninsured and underinsured vehicle coverage as required  
 2385 by s. 627.727.

2386 2. The coverage requirements of this paragraph may be  
 2387 satisfied by any of the following:

2388 a. Automobile insurance maintained by the TNC driver;

2389 b. Automobile insurance maintained by the TNC; or

2390 c. A combination of sub-subparagraphs a. and b.

2391 (g) Insurance satisfying the requirements under this  
 2392 subsection is deemed to satisfy the financial responsibility  
 2393 requirement for a motor vehicle under chapter 324 ~~and the~~  
 2394 ~~security required under s. 627.733~~ for any period when the TNC  
 2395 driver is logged onto the digital network or engaged in a  
 2396 prearranged ride.

2397 (8) TRANSPORTATION NETWORK COMPANY AND INSURER;  
 2398 DISCLOSURE; EXCLUSIONS.—

2399 (a) Before a TNC driver is allowed to accept a request for  
 2400 a prearranged ride on the digital network, the TNC must disclose

2401 in writing to the TNC driver:

2402 1. The insurance coverage, including the types of coverage  
 2403 and the limits for each coverage, which the TNC provides while  
 2404 the TNC driver uses a TNC vehicle in connection with the TNC's  
 2405 digital network.

2406 2. That the TNC driver's own automobile insurance policy  
 2407 might not provide any coverage while the TNC driver is logged on  
 2408 to the digital network or is engaged in a prearranged ride,  
 2409 depending on the terms of the TNC driver's own automobile  
 2410 insurance policy.

2411 3. That the provision of rides for compensation which are  
 2412 not prearranged rides subjects the driver to the coverage  
 2413 requirements imposed under s. 324.032(1) and (2) and that  
 2414 failure to meet such coverage requirements subjects the TNC  
 2415 driver to penalties provided in s. 324.221, up to and including  
 2416 a misdemeanor of the second degree.

2417 (b)1. An insurer that provides an automobile liability  
 2418 insurance policy under this part may exclude any and all  
 2419 coverage afforded under the policy issued to an owner or  
 2420 operator of a TNC vehicle while driving that vehicle for any  
 2421 loss or injury that occurs while a TNC driver is logged on to a  
 2422 digital network or while a TNC driver provides a prearranged  
 2423 ride. Exclusions imposed under this subsection are limited to  
 2424 coverage while a TNC driver is logged on to a digital network or  
 2425 while a TNC driver provides a prearranged ride. This right to

2426 | exclude all coverage may apply to any coverage included in an  
 2427 | automobile insurance policy, including, but not limited to:  
 2428 |       a. Liability coverage for bodily injury and property  
 2429 | damage;  
 2430 |       b. Uninsured and underinsured motorist coverage;  
 2431 |       c. Medical payments coverage;  
 2432 |       d. Comprehensive physical damage coverage; and  
 2433 |       e. Collision physical damage coverage; ~~and~~  
 2434 |       ~~f. Personal injury protection.~~  
 2435 |       2. The exclusions described in subparagraph 1. apply  
 2436 | notwithstanding any requirement under chapter 324. These  
 2437 | exclusions do not affect or diminish coverage otherwise  
 2438 | available for permissive drivers or resident relatives under the  
 2439 | personal automobile insurance policy of the TNC driver or owner  
 2440 | of the TNC vehicle who are not occupying the TNC vehicle at the  
 2441 | time of loss. This section does not require that a personal  
 2442 | automobile insurance policy provide coverage while the TNC  
 2443 | driver is logged on to a digital network, while the TNC driver  
 2444 | is engaged in a prearranged ride, or while the TNC driver  
 2445 | otherwise uses a vehicle to transport riders for compensation.  
 2446 |       3. This section must not be construed to require an  
 2447 | insurer to use any particular policy language or reference to  
 2448 | this section in order to exclude any and all coverage for any  
 2449 | loss or injury that occurs while a TNC driver is logged on to a  
 2450 | digital network or while a TNC driver provides a prearranged

2451 ride.

2452 4. This section does not preclude an insurer from  
 2453 providing primary or excess coverage for the TNC driver's  
 2454 vehicle by contract or endorsement.

2455 Section 50. Paragraph (a) of subsection (2) of section  
 2456 627.749, Florida Statutes, is amended to read:

2457 627.749 Autonomous vehicles; insurance requirements.—

2458 (2) INSURANCE REQUIREMENTS.—

2459 (a) A fully autonomous vehicle with the automated driving  
 2460 system engaged while logged on to an on-demand autonomous  
 2461 vehicle network or engaged in a prearranged ride must be covered  
 2462 by a policy of automobile insurance which provides:

2463 1. Primary liability coverage of at least \$1 million for  
 2464 death, bodily injury, and property damage.

2465 2. ~~Personal injury protection benefits that meet the~~  
 2466 ~~minimum coverage amounts required under ss. 627.730-627.7405.~~

2467 ~~3.~~ Uninsured and underinsured vehicle coverage as required  
 2468 by s. 627.727.

2469 Section 51. Section 627.8405, Florida Statutes, is amended  
 2470 to read:

2471 627.8405 Prohibited acts; financing companies.—A ~~No~~  
 2472 premium finance company ~~shall~~, in a premium finance agreement or  
 2473 other agreement, may not finance the cost of or otherwise  
 2474 provide for the collection or remittance of dues, assessments,  
 2475 fees, or other periodic payments of money for the cost of:

2476 (1) A membership in an automobile club. The term  
 2477 "automobile club" means a legal entity that ~~which~~, in  
 2478 consideration of dues, assessments, or periodic payments of  
 2479 money, promises its members or subscribers to assist them in  
 2480 matters relating to the ownership, operation, use, or  
 2481 maintenance of a motor vehicle; however, the term ~~this~~  
 2482 ~~definition of "automobile club"~~ does not include persons,  
 2483 associations, or corporations ~~which are~~ organized and operated  
 2484 solely for the purpose of conducting, sponsoring, or sanctioning  
 2485 motor vehicle races, exhibitions, or contests upon racetracks,  
 2486 or upon racecourses established and marked as such for the  
 2487 duration of such particular events. The term ~~words~~ "motor  
 2488 vehicle" used herein has ~~have~~ the same meaning as defined in  
 2489 chapter 320.

2490 (2) An accidental death and dismemberment policy sold in  
 2491 combination with a policy providing only bodily injury liability  
 2492 coverage ~~personal injury protection~~ and property damage  
 2493 liability coverage ~~only policy~~.

2494 (3) Any product not regulated under ~~the provisions of~~ this  
 2495 insurance code.

2496  
 2497 This section also applies to premium financing by any insurance  
 2498 agent or insurance company under part XVI. The commission shall  
 2499 adopt rules to assure disclosure, at the time of sale, of  
 2500 coverages financed ~~with personal injury protection~~ and shall

2501 prescribe the form of such disclosure.

2502 Section 52. Subsection (1) of section 627.915, Florida  
 2503 Statutes, is amended to read:

2504 627.915 Insurer experience reporting.-

2505 (1) Each insurer transacting private passenger automobile  
 2506 insurance in this state shall report certain information  
 2507 annually to the office. The information will be due on or before  
 2508 July 1 of each year. The information must ~~shall~~ be divided into  
 2509 the following categories: bodily injury liability; property  
 2510 damage liability; uninsured motorist; ~~personal injury protection~~  
 2511 ~~benefits~~; medical payments; and comprehensive and collision. The  
 2512 information given must ~~shall~~ be on direct insurance writings in  
 2513 the state alone and ~~shall~~ represent total limits data. The  
 2514 information set forth in paragraphs (a)-(f) is applicable to  
 2515 voluntary private passenger and Joint Underwriting Association  
 2516 private passenger writings and must ~~shall~~ be reported for each  
 2517 of the latest 3 calendar-accident years, with an evaluation date  
 2518 of March 31 of the current year. The information set forth in  
 2519 paragraphs (g)-(j) is applicable to voluntary private passenger  
 2520 writings and must ~~shall~~ be reported on a calendar-accident year  
 2521 basis ultimately seven times at seven different stages of  
 2522 development.

2523 (a) Premiums earned for the latest 3 calendar-accident  
 2524 years.

2525 (b) Loss development factors and the historic development

2526 of those factors.

2527 (c) Policyholder dividends incurred.

2528 (d) Expenses for other acquisition and general expense.

2529 (e) Expenses for agents' commissions and taxes, licenses,  
2530 and fees.

2531 (f) Profit and contingency factors as utilized in the  
2532 insurer's automobile rate filings for the applicable years.

2533 (g) Losses paid.

2534 (h) Losses unpaid.

2535 (i) Loss adjustment expenses paid.

2536 (j) Loss adjustment expenses unpaid.

2537 Section 53. Subsections (2) and (3) of section 628.909,  
2538 Florida Statutes, are amended to read:

2539 628.909 Applicability of other laws.—

2540 (2) The following provisions of the Florida Insurance Code  
2541 apply to captive insurance companies that ~~who~~ are not industrial  
2542 insured captive insurance companies to the extent that such  
2543 provisions are not inconsistent with this part:

2544 (a) Chapter 624, except for ss. 624.407, 624.408,  
2545 624.4085, 624.40851, 624.4095, 624.411, 624.425, and 624.426.

2546 (b) Chapter 625, part II.

2547 (c) Chapter 626, part IX.

2548 (d) ~~Sections 627.730-627.7405, when no-fault coverage is~~  
2549 ~~provided.~~

2550 ~~(e)~~ Chapter 628.

2551 (3) The following provisions of the Florida Insurance Code  
 2552 ~~shall~~ apply to industrial insured captive insurance companies to  
 2553 the extent that such provisions are not inconsistent with this  
 2554 part:

2555 (a) Chapter 624, except for ss. 624.407, 624.408,  
 2556 624.4085, 624.40851, 624.4095, 624.411, 624.425, 624.426, and  
 2557 624.609(1).

2558 (b) Chapter 625, part II, if the industrial insured  
 2559 captive insurance company is incorporated in this state.

2560 (c) Chapter 626, part IX.

2561 (d) ~~Sections 627.730-627.7405 when no fault coverage is~~  
 2562 ~~provided.~~

2563 ~~(e)~~ Chapter 628, except for ss. 628.341, 628.351, and  
 2564 628.6018.

2565 Section 54. Subsections (2), (6), and (7) of section  
 2566 705.184, Florida Statutes, are amended to read:

2567 705.184 Derelict or abandoned motor vehicles on the  
 2568 premises of public-use airports.—

2569 (2) The airport director or the director's designee shall  
 2570 contact the Department of Highway Safety and Motor Vehicles to  
 2571 notify that department that the airport has possession of the  
 2572 abandoned or derelict motor vehicle and to determine the name  
 2573 and address of the owner of the motor vehicle, the insurance  
 2574 company insuring the motor vehicle, ~~notwithstanding the~~  
 2575 ~~provisions of s. 627.736,~~ and any person who has filed a lien on

2576 | the motor vehicle. Within 7 business days after receipt of the  
 2577 | information, the director or the director's designee shall send  
 2578 | notice by certified mail, return receipt requested, to the owner  
 2579 | of the motor vehicle, the insurance company insuring the motor  
 2580 | vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all  
 2581 | persons of record claiming a lien against the motor vehicle. The  
 2582 | notice must ~~shall~~ state the fact of possession of the motor  
 2583 | vehicle, that charges for reasonable towing, storage, and  
 2584 | parking fees, if any, have accrued and the amount thereof, that  
 2585 | a lien as provided in subsection (6) will be claimed, that the  
 2586 | lien is subject to enforcement pursuant to law, that the owner  
 2587 | or lienholder, if any, has the right to a hearing as set forth  
 2588 | in subsection (4), and that any motor vehicle which, at the end  
 2589 | of 30 calendar days after receipt of the notice, has not been  
 2590 | removed from the airport upon payment in full of all accrued  
 2591 | charges for reasonable towing, storage, and parking fees, if  
 2592 | any, may be disposed of as provided in s. 705.182(2)(a), (b),  
 2593 | (d), or (e), including, but not limited to, the motor vehicle  
 2594 | being sold free of all prior liens after 35 calendar days after  
 2595 | the time the motor vehicle is stored if any prior liens on the  
 2596 | motor vehicle are more than 5 years of age or after 50 calendar  
 2597 | days after the time the motor vehicle is stored if any prior  
 2598 | liens on the motor vehicle are 5 years of age or less.

2599 |         (6) The airport pursuant to this section or, if used, a  
 2600 | licensed independent wrecker company pursuant to s. 713.78 shall

2601 have a lien on an abandoned or derelict motor vehicle for all  
 2602 reasonable towing, storage, and accrued parking fees, if any,  
 2603 except that no storage fee may ~~shall~~ be charged if the motor  
 2604 vehicle is stored less than 6 hours. As a prerequisite to  
 2605 perfecting a lien under this section, the airport director or  
 2606 the director's designee must serve a notice in accordance with  
 2607 subsection (2) on the owner of the motor vehicle, the insurance  
 2608 company insuring the motor vehicle, ~~notwithstanding the~~  
 2609 ~~provisions of s. 627.736,~~ and all persons of record claiming a  
 2610 lien against the motor vehicle. If attempts to notify the owner,  
 2611 the insurance company insuring the motor vehicle,  
 2612 ~~notwithstanding the provisions of s. 627.736,~~ or lienholders are  
 2613 not successful, the requirement of notice by mail shall be  
 2614 considered met. Serving of the notice does not dispense with  
 2615 recording the claim of lien.

2616 (7)(a) For the purpose of perfecting its lien under this  
 2617 section, the airport shall record a claim of lien which states  
 2618 ~~shall state:~~

- 2619 1. The name and address of the airport.
- 2620 2. The name of the owner of the motor vehicle, the  
 2621 insurance company insuring the motor vehicle, ~~notwithstanding~~  
 2622 ~~the provisions of s. 627.736,~~ and all persons of record claiming  
 2623 a lien against the motor vehicle.
- 2624 3. The costs incurred from reasonable towing, storage, and  
 2625 parking fees, if any.

2626 4. A description of the motor vehicle sufficient for  
 2627 identification.

2628 (b) The claim of lien must ~~shall~~ be signed and sworn to or  
 2629 affirmed by the airport director or the director's designee.

2630 (c) The claim of lien is ~~shall be~~ sufficient if it is in  
 2631 substantially the following form:

2632

CLAIM OF LIEN

2634 State of .....

2635 County of .....

2636 Before me, the undersigned notary public, personally appeared  
 2637 ....., who was duly sworn and says that he/she is the  
 2638 ..... of ....., whose address is.....; and that the  
 2639 following described motor vehicle:

2640 ...(Description of motor vehicle)...

2641 owned by ....., whose address is ....., has accrued  
 2642 \$..... in fees for a reasonable tow, for storage, and for  
 2643 parking, if applicable; that the lienor served its notice to the  
 2644 owner, the insurance company insuring the motor vehicle  
 2645 ~~notwithstanding the provisions of s. 627.736, Florida Statutes,~~  
 2646 and all persons of record claiming a lien against the motor  
 2647 vehicle on ....., ...(year)...., by.....

2648 ...(Signature)...

2649 Sworn to (or affirmed) and subscribed before me this .... day of  
 2650 ....., ...(year)...., by ...(name of person making statement)....

2651 ... (Signature of Notary Public)..... (Print, Type, or Stamp  
 2652 Commissioned name of Notary Public) ...  
 2653 Personally Known... OR Produced... as identification.

2654  
 2655 However, the negligent inclusion or omission of any information  
 2656 in this claim of lien which does not prejudice the owner does  
 2657 not constitute a default that operates to defeat an otherwise  
 2658 valid lien.

2659 (d) The claim of lien must ~~shall~~ be served on the owner of  
 2660 the motor vehicle, the insurance company insuring the motor  
 2661 vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all  
 2662 persons of record claiming a lien against the motor vehicle. If  
 2663 attempts to notify the owner, the insurance company insuring the  
 2664 motor vehicle ~~notwithstanding the provisions of s. 627.736,~~ or  
 2665 lienholders are not successful, the requirement of notice by  
 2666 mail shall be considered met. The claim of lien must ~~shall~~ be so  
 2667 served before recordation.

2668 (e) The claim of lien must ~~shall~~ be recorded with the  
 2669 clerk of court in the county where the airport is located. The  
 2670 recording of the claim of lien shall be constructive notice to  
 2671 all persons of the contents and effect of such claim. The lien  
 2672 attaches ~~shall attach~~ at the time of recordation and takes ~~shall~~  
 2673 ~~take~~ priority as of that time.

2674 Section 55. Subsection (4) of section 713.78, Florida  
 2675 Statutes, is amended to read:

2676 713.78 Liens for recovering, towing, or storing vehicles  
 2677 and vessels.-

2678 (4) (a) A person regularly engaged in the business of  
 2679 recovering, towing, or storing vehicles or vessels who comes  
 2680 into possession of a vehicle or vessel pursuant to subsection  
 2681 (2), and who claims a lien for recovery, towing, or storage  
 2682 services, shall give notice, by certified mail, to the  
 2683 registered owner, the insurance company insuring the vehicle  
 2684 ~~notwithstanding s. 627.736~~, and all persons claiming a lien  
 2685 thereon, as disclosed by the records in the Department of  
 2686 Highway Safety and Motor Vehicles or as disclosed by the records  
 2687 of any corresponding agency in any other state in which the  
 2688 vehicle is identified through a records check of the National  
 2689 Motor Vehicle Title Information System or an equivalent  
 2690 commercially available system as being titled or registered.

2691 (b) Whenever a law enforcement agency authorizes the  
 2692 removal of a vehicle or vessel or whenever a towing service,  
 2693 garage, repair shop, or automotive service, storage, or parking  
 2694 place notifies the law enforcement agency of possession of a  
 2695 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law  
 2696 enforcement agency of the jurisdiction where the vehicle or  
 2697 vessel is stored shall contact the Department of Highway Safety  
 2698 and Motor Vehicles, or the appropriate agency of the state of  
 2699 registration, if known, within 24 hours through the medium of  
 2700 electronic communications, giving the full description of the

2701 vehicle or vessel. Upon receipt of the full description of the  
 2702 vehicle or vessel, the department shall search its files to  
 2703 determine the owner's name, the insurance company insuring the  
 2704 vehicle or vessel, and whether any person has filed a lien upon  
 2705 the vehicle or vessel as provided in s. 319.27(2) and (3) and  
 2706 notify the applicable law enforcement agency within 72 hours.  
 2707 The person in charge of the towing service, garage, repair shop,  
 2708 or automotive service, storage, or parking place shall obtain  
 2709 such information from the applicable law enforcement agency  
 2710 within 5 days after the date of storage and shall give notice  
 2711 pursuant to paragraph (a). The department may release the  
 2712 insurance company information to the requestor ~~notwithstanding~~  
 2713 ~~s. 627.736.~~

2714 (c) The notice of lien must be sent by certified mail to  
 2715 the registered owner, the insurance company insuring the vehicle  
 2716 ~~notwithstanding s. 627.736~~, and all other persons claiming a  
 2717 lien thereon within 7 business days, excluding Saturday and  
 2718 Sunday, after the date of storage of the vehicle or vessel.  
 2719 However, in no event shall the notice of lien be sent less than  
 2720 30 days before the sale of the vehicle or vessel. The notice  
 2721 must state:

2722 1. If the claim of lien is for a vehicle, the last 8  
 2723 digits of the vehicle identification number of the vehicle  
 2724 subject to the lien, or, if the claim of lien is for a vessel,  
 2725 the hull identification number of the vessel subject to the

2726 | lien, clearly printed in the delivery address box and on the  
 2727 | outside of the envelope sent to the registered owner and all  
 2728 | other persons claiming an interest therein or lien thereon.

2729 |         2. The name, physical address, and telephone number of the  
 2730 | lienor, and the entity name, as registered with the Division of  
 2731 | Corporations, of the business where the towing and storage  
 2732 | occurred, which must also appear on the outside of the envelope  
 2733 | sent to the registered owner and all other persons claiming an  
 2734 | interest in or lien on the vehicle or vessel.

2735 |         3. The fact of possession of the vehicle or vessel.

2736 |         4. The name of the person or entity that authorized the  
 2737 | lienor to take possession of the vehicle or vessel.

2738 |         5. That a lien as provided in subsection (2) is claimed.

2739 |         6. That charges have accrued and include an itemized  
 2740 | statement of the amount thereof.

2741 |         7. That the lien is subject to enforcement under law and  
 2742 | that the owner or lienholder, if any, has the right to a hearing  
 2743 | as set forth in subsection (5).

2744 |         8. That any vehicle or vessel that remains unclaimed, or  
 2745 | for which the charges for recovery, towing, or storage services  
 2746 | remain unpaid, may be sold free of all prior liens 35 days after  
 2747 | the vehicle or vessel is stored by the lienor if the vehicle or  
 2748 | vessel is more than 3 years of age or 50 days after the vehicle  
 2749 | or vessel is stored by the lienor if the vehicle or vessel is 3  
 2750 | years of age or less.

2751           9. The address at which the vehicle or vessel is  
2752 physically located.

2753           (d) The notice of lien may not be sent to the registered  
2754 owner, the insurance company insuring the vehicle or vessel, and  
2755 all other persons claiming a lien thereon less than 30 days  
2756 before the sale of the vehicle or vessel.

2757           (e) If attempts to locate the name and address of the  
2758 owner or lienholder prove unsuccessful, the towing-storage  
2759 operator shall, after 7 business days, excluding Saturday and  
2760 Sunday, after the initial tow or storage, notify the public  
2761 agency of jurisdiction where the vehicle or vessel is stored in  
2762 writing by certified mail or acknowledged hand delivery that the  
2763 towing-storage company has been unable to locate the name and  
2764 address of the owner or lienholder and a physical search of the  
2765 vehicle or vessel has disclosed no ownership information and a  
2766 good faith effort has been made, including records checks of the  
2767 Department of Highway Safety and Motor Vehicles database and the  
2768 National Motor Vehicle Title Information System or an equivalent  
2769 commercially available system. For purposes of this paragraph  
2770 and subsection (9), the term "good faith effort" means that the  
2771 following checks have been performed by the company to establish  
2772 the prior state of registration and for title:

2773           1. A check of the department's database for the owner and  
2774 any lienholder.

2775           2. A check of the electronic National Motor Vehicle Title

2776 Information System or an equivalent commercially available  
 2777 system to determine the state of registration when there is not  
 2778 a current registration record for the vehicle or vessel on file  
 2779 with the department.

2780 3. A check of the vehicle or vessel for any type of tag,  
 2781 tag record, temporary tag, or regular tag.

2782 4. A check of the law enforcement report for a tag number  
 2783 or other information identifying the vehicle or vessel, if the  
 2784 vehicle or vessel was towed at the request of a law enforcement  
 2785 officer.

2786 5. A check of the trip sheet or tow ticket of the tow  
 2787 truck operator to determine whether a tag was on the vehicle or  
 2788 vessel at the beginning of the tow, if a private tow.

2789 6. If there is no address of the owner on the impound  
 2790 report, a check of the law enforcement report to determine  
 2791 whether an out-of-state address is indicated from driver license  
 2792 information.

2793 7. A check of the vehicle or vessel for an inspection  
 2794 sticker or other stickers and decals that may indicate a state  
 2795 of possible registration.

2796 8. A check of the interior of the vehicle or vessel for  
 2797 any papers that may be in the glove box, trunk, or other areas  
 2798 for a state of registration.

2799 9. A check of the vehicle for a vehicle identification  
 2800 number.

2801 10. A check of the vessel for a vessel registration  
2802 number.

2803 11. A check of the vessel hull for a hull identification  
2804 number which should be carved, burned, stamped, embossed, or  
2805 otherwise permanently affixed to the outboard side of the  
2806 transom or, if there is no transom, to the outmost seaboard side  
2807 at the end of the hull that bears the rudder or other steering  
2808 mechanism.

2809 Section 56. Paragraph (a) of subsection (1), paragraph (c)  
2810 of subsection (7), paragraphs (a), (b), and (c) of subsection  
2811 (8), and subsections (9) and (10) of section 817.234, Florida  
2812 Statutes, are amended to read:

2813 817.234 False and fraudulent insurance claims.-

2814 (1)(a) A person commits insurance fraud punishable as  
2815 provided in subsection (11) if that person, with the intent to  
2816 injure, defraud, or deceive any insurer:

2817 1. Presents or causes to be presented any written or oral  
2818 statement as part of, or in support of, a claim for payment or  
2819 other benefit pursuant to an insurance policy or a health  
2820 maintenance organization subscriber or provider contract,  
2821 knowing that such statement contains ~~any~~ false, incomplete, or  
2822 misleading information concerning any fact or thing material to  
2823 such claim;

2824 2. Prepares or makes any written or oral statement that is  
2825 intended to be presented to an ~~any~~ insurer in connection with,

2826 or in support of, any claim for payment or other benefit  
 2827 pursuant to an insurance policy or a health maintenance  
 2828 organization subscriber or provider contract, knowing that such  
 2829 statement contains ~~any~~ false, incomplete, or misleading  
 2830 information concerning any fact or thing material to such claim;

2831 3.a. Knowingly presents, causes to be presented, or  
 2832 prepares or makes with knowledge or belief that it will be  
 2833 presented to an ~~any~~ insurer, purported insurer, servicing  
 2834 corporation, insurance broker, or insurance agent, or any  
 2835 employee or agent thereof, ~~any~~ false, incomplete, or misleading  
 2836 information or a written or oral statement as part of, or in  
 2837 support of, an application for the issuance of, or the rating  
 2838 of, any insurance policy, or a health maintenance organization  
 2839 subscriber or provider contract; or

2840 b. Knowingly conceals information concerning any fact  
 2841 material to such application; or

2842 4. Knowingly presents, causes to be presented, or prepares  
 2843 or makes with knowledge or belief that it will be presented to  
 2844 any insurer a claim for payment or other benefit under medical  
 2845 payments coverage in a motor vehicle ~~a personal injury~~  
 2846 ~~protection~~ insurance policy if the person knows that the payee  
 2847 knowingly submitted a false, misleading, or fraudulent  
 2848 application or other document when applying for licensure as a  
 2849 health care clinic, seeking an exemption from licensure as a  
 2850 health care clinic, or demonstrating compliance with part X of

2851 chapter 400.

2852 (7)

2853 ~~(c) An insurer, or any person acting at the direction of~~  
 2854 ~~or on behalf of an insurer, may not change an opinion in a~~  
 2855 ~~mental or physical report prepared under s. 627.736(7) or direct~~  
 2856 ~~the physician preparing the report to change such opinion;~~  
 2857 ~~however, this provision does not preclude the insurer from~~  
 2858 ~~calling to the attention of the physician errors of fact in the~~  
 2859 ~~report based upon information in the claim file. Any person who~~  
 2860 ~~violates this paragraph commits a felony of the third degree,~~  
 2861 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

2862 (8)(a) It is unlawful for any person intending to defraud  
 2863 any other person to solicit or cause to be solicited any  
 2864 business from a person involved in a motor vehicle accident for  
 2865 the purpose of making, adjusting, or settling motor vehicle tort  
 2866 claims or claims for benefits under medical payments coverage in  
 2867 a motor vehicle insurance policy ~~personal injury protection~~  
 2868 ~~benefits required by s. 627.736.~~ Any person who violates ~~the~~  
 2869 ~~provisions of~~ this paragraph commits a felony of the second  
 2870 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 2871 775.084. A person who is convicted of a violation of this  
 2872 subsection shall be sentenced to a minimum term of imprisonment  
 2873 of 2 years.

2874 (b) A person may not solicit or cause to be solicited any  
 2875 business from a person involved in a motor vehicle accident by

2876 any means of communication other than advertising directed to  
 2877 the public for the purpose of making motor vehicle tort claims  
 2878 or claims for benefits under medical payments coverage in a  
 2879 motor vehicle insurance policy ~~personal injury protection~~  
 2880 ~~benefits required by s. 627.736,~~ within 60 days after the  
 2881 occurrence of the motor vehicle accident. Any person who  
 2882 violates this paragraph commits a felony of the third degree,  
 2883 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2884 (c) A lawyer, health care practitioner as defined in s.  
 2885 456.001, or owner or medical director of a clinic required to be  
 2886 licensed pursuant to s. 400.9905 may not, at any time after 60  
 2887 days have elapsed from the occurrence of a motor vehicle  
 2888 accident, solicit or cause to be solicited any business from a  
 2889 person involved in a motor vehicle accident by means of in  
 2890 person or telephone contact at the person's residence, for the  
 2891 purpose of making motor vehicle tort claims or claims for  
 2892 benefits under medical payments coverage in a motor vehicle  
 2893 insurance policy ~~personal injury protection benefits required by~~  
 2894 ~~s. 627.736.~~ Any person who violates this paragraph commits a  
 2895 felony of the third degree, punishable as provided in s.  
 2896 775.082, s. 775.083, or s. 775.084.

2897 (9) A person may not organize, plan, or knowingly  
 2898 participate in an intentional motor vehicle crash or a scheme to  
 2899 create documentation of a motor vehicle crash that did not occur  
 2900 for the purpose of making motor vehicle tort claims or claims

2901 | for benefits under medical payments coverage in a motor vehicle  
 2902 | insurance policy ~~personal injury protection benefits as required~~  
 2903 | ~~by s. 627.736.~~ Any person who violates this subsection commits a  
 2904 | felony of the second degree, punishable as provided in s.  
 2905 | 775.082, s. 775.083, or s. 775.084. A person who is convicted of  
 2906 | a violation of this subsection shall be sentenced to a minimum  
 2907 | term of imprisonment of 2 years.

2908 | (10) A licensed health care practitioner who is found  
 2909 | guilty of insurance fraud under this section for an act relating  
 2910 | to a motor vehicle ~~personal injury protection~~ insurance policy  
 2911 | loses his or her license to practice for 5 years and may not  
 2912 | receive reimbursement under medical payments coverage in a motor  
 2913 | vehicle insurance policy ~~for personal injury protection benefits~~  
 2914 | for 10 years.

2915 | Section 57. For the 2020-2021 fiscal year, the sum of  
 2916 | \$83,651 in nonrecurring funds is appropriated from the Insurance  
 2917 | Regulatory Trust Fund to the Office of Insurance Regulation for  
 2918 | the purpose of implementing this act.

2919 | Section 58. Except as otherwise expressly provided in this  
 2920 | act and except for this section, which shall take effect upon  
 2921 | this act becoming a law, this act shall take effect January 1,  
 2922 | 2021.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 991 Lottery Games  
**SPONSOR(S):** Robinson  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1318

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Gaming Control Subcommittee	14 Y, 1 N	Salter	Barry
2) Government Operations & Technology Appropriations Subcommittee		Helpling	Topp  BDT
3) Commerce Committee			

**SUMMARY ANALYSIS**

Gambling is generally prohibited and illegal in Florida. However, in 1986, Florida voters adopted a constitutional amendment authorizing the creation of the Department of the Lottery (Lottery). Since that time, the Florida Lottery has grown into one of the largest state-run lotteries in the country, with annual sales exceeding \$7.1 billion in fiscal year 2018-2019. Lottery tickets can be purchased at over 13,000 retail locations throughout Florida.

Current law does not require the Lottery to inform customers who purchase lottery tickets of the risks associated with gambling, including the potential for compulsive or addictive behavior. However, the Lottery encourages customers to “Play Responsibly” and widely advertises a toll-free phone number for a referral service to assist people with gambling problems.

The bill amends current law by directing the Lottery to contractually require vendors to place the following message prominently on all lottery tickets: “PLAY RESPONSIBLY.” The bill requires the Lottery to provide the same message in all advertisements or promotions of lottery games, including those on television, the Internet, print, and the radio.

The bill expressly prohibits the player’s use of electronic devices in playing lottery games. The bill prohibits the Lottery from conducting a lottery game in which the winner is chosen on the basis of the activities or outcomes of one or more sporting events.

The bill requires \$500,000 annually from the Lottery’s Operating Trust Fund to be allocated toward preventing compulsive and addictive gambling. The bill does not provide an appropriation. See *Fiscal Analysis and Economic Impact Statement*.

The bill provides for an effective date of July 1, 2020.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **General Overview of Lottery in Florida**

In general, gambling is illegal in Florida.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines.<sup>4</sup> Certain exceptions have been authorized, with restrictions on permitted locations, operators, and prizes, including penny-ante games,<sup>5</sup> bingo,<sup>6</sup> cardrooms,<sup>7</sup> charitable drawings,<sup>8</sup> game promotions (sweepstakes),<sup>9</sup> and bowling tournaments.<sup>10</sup> In addition, Chapters 550 and 551, F.S., respectively, authorize pari-mutuel wagering on certain live events at licensed facilities and slot machine gaming at specified locations.

Section 7 of Article X of the Florida Constitution provides, "Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state."<sup>11</sup>

In 1986, Florida voters approved an amendment to the Florida Constitution to allow the state to operate a lottery. Section 15 of Article X of the Florida Constitution provides as follows:

Lotteries may be operated by the state.... On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery pursuant to the constitutional authorization set forth above. Section 24.102, F.S., creates the Department of the Lottery (Lottery) and states the Legislature's intent that it be self-supporting, revenue-producing, and function as an entrepreneurial business enterprise. Florida began offering lottery games in 1988, with a \$1 weekly drawing.<sup>12</sup> Since then, the Lottery has grown to include approximately 60 different scratch-off games available at over 13,000 retailer locations, with lottery ticket prices ranging from \$1 to \$30.<sup>13</sup> This growth resulted in more than \$7.1 billion in total sales for the 2018-2019 fiscal year.<sup>14</sup>

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<sup>1</sup> S. 849.08, F.S.

<sup>2</sup> S. 849.01, F.S.

<sup>3</sup> S. 849.09, F.S.

<sup>4</sup> S. 849.16, F.S.

<sup>5</sup> S. 849.085, F.S.

<sup>6</sup> S. 849.0931, F.S.

<sup>7</sup> S. 849.086, F.S.

<sup>8</sup> S. 849.0935, F.S.

<sup>9</sup> S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>10</sup> S. 546.10, F.S.

<sup>11</sup> The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution (Nov. 5, 1968) include horseracing, greyhound racing and jai alai games.

<sup>12</sup> Fla. Lottery, *History*, <http://www.flalottery.com/history> (last visited Jan. 22, 2020).

<sup>13</sup> *Id.*; Fla. Lottery, *Scratch Offs*, <http://www.flalottery.com/scratch-offs?amount=30> (last visited Jan. 22, 2020).

<sup>14</sup> Office of Program Policy Analysis and Government Accountability, *Review of the Florida Lottery, 2019 DRAFT* (Jan. 2020).

## Lottery Warning and Problem Gambling

Currently, there is no statutory provision requiring the Lottery to inform customers who purchase lottery tickets of the risks associated with gambling, including the potential for compulsive or addictive gambling. However, the Lottery's website includes a "Play Responsibly" page, which states:

Florida Lottery games are designed to be a fun, low-cost form of entertainment with the added benefit of helping to support education. While most of our players enjoy the fun and entertainment of playing our games, for some, gambling of any kind can be a problem.

To assist individuals and families struggling with addiction, the Florida Lottery encourages them to contact the Florida Council on Compulsive Gambling... Their multilingual Helpline number is:

888-ADMIT IT (888-236-4848)<sup>15</sup>

The Play Responsibly page also lists phone numbers and a link where one may call, text, or chat with someone at the National Problem Gambling Helpline as well as a link to Gamblers Anonymous.<sup>16</sup> Phone numbers for the Florida Council on Compulsive Gambling, National Problem Gambling Helpline and Gamblers Anonymous can also be found in "Play Responsibly" pamphlets, located next to tickets in most retailers.<sup>17</sup>

In addition, the following statement is found on the back of certain lottery products: "Play Responsibly – If you or someone you know has a gambling problem, call 1-888-ADMIT-IT."<sup>18</sup>

Addiction is characterized by the "inability to consistently abstain, impairment in behavioral control, craving, diminished recognition of significant problems with one's behaviors and interpersonal relationships, and a dysfunctional emotional response."<sup>19</sup> Opponents of gambling contend that participants in gambling are particularly susceptible to addiction, specifically in an attempt to overcome the anxiety brought on by the gambling lifestyle.<sup>20</sup> Gambling studies indicate that games of chance present the illusion of quick and effortless financial gain yet can often lead to financial loss due to the statistical improbability of winning a prize.<sup>21</sup> Researchers describe a cycle in which the gambler believes she can win back her losses, with the cycle continuing until she is forced to seek rehabilitation to break her habit.<sup>22</sup>

## Personal Electronic Devices

The percentage of Americans who own a cellphone has increased significantly, from 62% in 2002 to 96% in 2019.<sup>23</sup> Smartphone ownership has also increased dramatically from 35% in 2011 to 81% in 2019.<sup>24</sup> Tablet computers were introduced in 2010 and as of June 2019, roughly half of U.S. adults own

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<sup>15</sup> Fla. Lottery, *Where to Play*, <http://www.flalottery.com/whereToPlay> (last visited Jan. 22, 2020).

<sup>16</sup> Fla. Lottery, *Play Responsibly*, <http://www.flalottery.com/playResponsibly> (last visited Jan. 22, 2020).

<sup>17</sup> Document on file with the Gaming Control Subcommittee.

<sup>18</sup> Document on file with the Gaming Control Subcommittee.

<sup>19</sup> Am. Soc'y of Addiction Med., *Quality and Practice*, <http://www.asam.org/quality-practice/definition-of-addiction> (last visited Jan. 22, 2020).

<sup>20</sup> See Psychguides.com, *Compulsive Gambling Symptoms, Causes and Effects*, <http://www.psychguides.com/guides/compulsive-gambling-symptoms-causes-and-effects/> (last visited Jan. 22, 2020).

<sup>21</sup> *Id.*

<sup>22</sup> See Natasha Dow Schüll, *Addiction by Design: Machine Gambling in Las Vegas*, 225 (2012).

<sup>23</sup> Pew Research Center, *Mobile Fact Sheet*, <http://www.pewinternet.org/fact-sheet/mobile/> (last visited Jan. 22, 2020).

<sup>24</sup> *Id.*

one.<sup>25</sup> American ownership of desktop and laptop computers has experienced slight fluctuation over the past 10 years, with ownership remaining around 75%.<sup>26</sup>

Currently, there is no explicit statutory provision related to the use of such devices in relation to lottery tickets or games. However, given the wording of several statutes and their enactment prior to the advent and proliferation of smartphones, the Lottery's authorizing statutes appear to contemplate the authorization of lottery games in paper form only.<sup>27</sup>

## Recent Developments

Sports betting has become largely popular over the past three decades. In 1992, the federal Professional and Amateur Sports Protection Act (PASPA) was enacted into law. PASPA made it unlawful for a governmental entity or person to sponsor, operate, advertise, promote, license, or authorize a lottery, sweepstakes, or other betting, gambling, or wagering on professional or amateur sports. In May 2018, the U.S. Supreme Court held that the PASPA provision prohibiting state authorization of sports gambling violated the anti-commandeering rule and was therefore unconstitutional.<sup>28</sup> As of January 2020, 15 states have legalized sports betting.<sup>29</sup>

In November 2018, Florida voters passed a constitutional amendment entitled Voter Control of Gambling in Florida, substantially reducing the Legislature's authority to authorize "casino gambling."<sup>30</sup> The Florida Lottery,<sup>31</sup> certain tribal gaming,<sup>32</sup> and specified pari-mutuel wagering activities<sup>33</sup> are exempt from the amendment.

## Educational Enhancement Trust Fund

The Lottery is required to transfer variable percentages of gross revenue from the sale of lottery games from the Lottery's Operating Trust Fund to the Educational Enhancement Trust Fund within the Department of Education.<sup>34</sup> The remaining funds left in the Lottery's Operating Trust Fund are used for the payment of administrative expenses of the Lottery, including costs incurred for contracts entered into for the purchase of goods or services required by the Lottery.<sup>35</sup> The December 11, 2019, Revenue Estimating Conference estimated \$1.8 billion for Fiscal Year 2019-20, \$1.9 billion for Fiscal Year 2020-21, and \$1.9 billion for Fiscal Year 2021-22 to be transferred to the Educational Enhancement Trust Fund.<sup>36</sup>

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> S. 24.112(13), F.S.; S. 24.105(6), F.S.; S. 24.108(2), F.S. (1987).

<sup>28</sup> In 2012, New Jersey enacted a constitutional amendment making it lawful for the legislature to authorize sports gambling. The National Collegiate Athletic Association brought suit, ultimately leading to a ruling by the U.S. Supreme Court invalidating PASPA. *Murphy v. NCAA*, 138 S.Ct. 1461, 1471 (2018).

<sup>29</sup> Dustin Gouker, *Legislative Tracker: Sports Betting*, Legal Sports Report (Jan. 11, 2020), <https://www.legalsportsreport.com/sportsbetting-bill-tracker/> (last visited Jan. 22, 2020).

<sup>30</sup> FLA. CONST. ART. X. §30.

<sup>31</sup> For purposes of Article X, Section 30, the term "casino gambling" excludes any game authorized under Article X, Section 15 of the Florida Constitution (State operated lotteries). FLA. CONST. ART. X. §30.

<sup>32</sup> Article X, Section 30(c) provides as follows: "Nothing herein shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to IGRA." FLA. CONST. ART. X. §30(c).

<sup>33</sup> For purposes of Article X, Section 30, the term "casino gambling" does not include pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions. FLA. CONST. ART. X. §30.

<sup>34</sup> S. 24.121(2) F.S.

<sup>35</sup> S. 24.121(3) F.S.

<sup>36</sup> Office of Economic and Demographic Research, Revenue Estimating Conference Executive Summary for Lottery Ticket Sales and the EETF December 11, 2019, <http://edr.state.fl.us/Content/conferences/lottery/lotterysummary.pdf> (last visited Feb. 6, 2020).

## **Effect of Proposed Changes**

The bill requires that beginning January 1, 2021, all advertisements and promotions of lottery games include the following message: "PLAY RESPONSIBLY." If the advertisement is shown on television, the internet, or another electronic medium, the message must appear in black font on a white background and occupy at least five percent of the surface area of the advertisement or promotion. If the advertisement is in print, including a newspaper, magazine, or billboard, the message must appear in prominent text and occupy at least five percent of the total surface area of the advertisement or promotion. If the advertisement is on the radio, the message must be audibly announced at the conclusion of the advertisement or promotion.

The bill requires that beginning January 1, 2021, all contracts for the printing of lottery tickets specify that tickets printed on or after January 1, 2022, must include the following message: "PLAY RESPONSIBLY." The message must appear in prominent text on the front of each ticket and occupy at least five percent of the total surface area of the ticket.

The bill prohibits the use of electronic devices to play lottery games.<sup>37</sup> The bill also clarifies that the Lottery may not conduct any lottery game in which the winner is chosen based upon the activities or outcomes of one or more sporting events.

The bill requires the Lottery to make an annual payment of \$500,000 for services related to the prevention of compulsive and addictive gambling. The Lottery must contract for such services, which must include an advertising program to encourage responsible gambling practice and a publicized telephone help line. Any contract for these services must include accountability standards, which must be met by a private provider. Failure by the private provider to meet any material terms of the contract, including the accountability standards, will result in a breach of contract or grounds for nonrenewal. The annual payment would be made from the funds remaining in the Operating Trust Fund after transfers to the Educational Enhancement Trust Fund.

### **B. SECTION DIRECTORY:**

Section 1: Amends s. 24.105, F.S., relating to powers and duties of the Department of the Lottery.

Section 2: Amends s. 24.107, F.S., relating to advertising and promotions of lottery games.

Section 3: Amends s. 24.111, F.S., relating to vendors; disclosure and contract requirements.

Section 4: Amends s. 24.121, F.S., relating to allocation of revenues and expenditure of funds for public education.

Section 5: Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

#### **1. Revenues:**

The lottery projects that there will be an estimated loss of revenue totaling \$117.2 million.<sup>38</sup> This amount includes taking as many as 1,125 terminal and 208 vending machines out of service at one time to have the message "PLAY RESPONSIBLY" appear on the machines. The Lottery is

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<sup>37</sup> This does not apply to Lottery vending machines under s. 24.112, F.S.

<sup>38</sup> Department of the Lottery, Department Analysis of 2020 HB 991, p. 4 (Jan. 30, 2020).

authorized to have 1,000 Full-Service Vending Machines to sell terminal tickets and instant tickets and 1,500 Full Service Vending Machines with functionality to sell only instant tickets.<sup>39</sup> This loss of sales would represent a decrease in transfer to the Educational Enhancement Trust Fund of \$37.9 million.<sup>40</sup>

However, the bill provides that advertisements in print include newspapers, magazines, and billboards that must include the “PLAY RESPONSIBLY” message. The bill does not identify terminal and vending machines as media that require the message. The Lottery fiscal analysis does not appear to be applicable to the bill as drafted. The Lottery analysis did not include loss of revenue or reductions to the Educational Enhancement Trust Fund related to the “PLAY RESPONSIBLY” message appearing on advertisements or tickets, as specified by the bill. If the Lottery is not required to modify terminal and vending machines, there is likely no loss of current revenue resulting from the implementation of the bill.

## 2. Expenditures:

The Lottery estimates the total cost to implement the bill is approximately \$6.3 million, as follows:

- Terminal, vending machines, and other related products: \$4.4 million.
- Lighted jackpot signs throughout the state: \$1.36 million.
- Modifications to signs and promotional materials at vendor locations: \$266,000.
- Replacement of billboards: \$240,000.<sup>41</sup>

As stated above, the bill provides that advertisements in print include newspapers, magazines, and billboards. From the estimated expenditures provided by the Lottery, it may be that only billboards will be required to have the “PLAY RESPONSIBLE” message be included. The estimated cost for the billboard is for complete replacement. The Lottery did not provide an estimate for other alternatives, including modification to current billboards. Modifications to advertisements including billboard modifications or replacements can be accomplished with the Lottery’s base appropriations for advertising. The Lottery’s paid advertising and promotion appropriation is \$36.3 million for Fiscal Year 2019-20.<sup>42</sup>

The bill requires all lottery tickets that are not part of an interstate lottery to include a “PLAY RESPONSIBLY” message beginning January 1, 2022. The Lottery did not provide an estimated cost for modifying tickets to include the message. Many tickets already include “Play Responsibly – If you or someone you know has a gambling problem, call 1-888-ADMIT-IT” on the back of tickets. The cost to include “PLAY RESPONSIBLY” on 5 percent on the front of specified lottery tickets, within the specified time frame, may be of minimal cost.

The bill requires the Lottery to make an annual payment of \$500,000 for services related to the prevention of compulsive and addictive gambling. This requirement will decrease potential transfers to the Educational Enhancement Trust Fund by \$500,000. However, the bill does not include an appropriation for the Lottery to use the funds for this purpose.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

None.

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<sup>39</sup> Ch. 2019-115 Laws of Fla., Specific Appropriation 2771.

<sup>40</sup> Department of the Lottery, *supra* note 35 at 4.

<sup>41</sup> Department of the Lottery, Department Analysis of 2020 HB 991, p. 5 (Jan. 30, 2020).

<sup>42</sup> Ch. 2019-115 Laws of Fla., Specific Appropriation 2773.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the Lottery removes vending and ticket machines from retailer stores to be modified, the Lottery estimates a projected loss of approximately \$6.6 million in retailer commissions.<sup>43</sup> However the Lottery's fiscal analysis does not appear to be applicable to the bill as drafted.

D. FISCAL COMMENTS:

The bill has not yet been reviewed by the Revenue Estimating Impact Conference.

### 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>43</sup> Department of the Lottery, *supra* note 38 at 5.

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A bill to be entitled  
 An act relating to lottery games; amending s. 24.105,  
 F.S.; prohibiting an electronic device from being used  
 by a player to play any lottery game; prohibiting the  
 department from authorizing the operation of a  
 specified lottery game; amending s. 24.107, F.S.;  
 requiring the Department of the Lottery to include a  
 specified warning in all advertisements and promotions  
 of lottery games; providing an exception; providing  
 requirements for such warning; amending s. 24.111,  
 F.S.; requiring all contracts between the department  
 and a vendor to include a provision that requires the  
 vendor to place or print a specified warning on all  
 lottery tickets; providing an exception; providing  
 requirements for such warning; amending s. 24.121,  
 F.S.; requiring certain funds in the Operating Trust  
 Fund to be used for a specified annual payment for  
 services relating to the prevention of compulsive and  
 addictive gambling; requiring the department to  
 contract for such services; providing contract  
 requirements; providing an effective date.

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

Section 1. Paragraph (a) of subsection (9) of section

26 24.105, Florida Statutes, is amended to read:

27 24.105 Powers and duties of department.—The department  
28 shall:

29 (9) Adopt rules governing the establishment and operation  
30 of the state lottery, including:

31 (a) The type of lottery games to be conducted, except  
32 that:

33 1. The ~~Ne~~ name of an elected official may not ~~shall~~ appear  
34 on the ticket or play slip of any lottery game or on any prize  
35 or on any instrument used for the payment of prizes, unless such  
36 prize is in the form of a state warrant.

37 2. ~~Ne~~ Coins or currency may not ~~shall~~ be dispensed from  
38 any electronic computer terminal or electronic device used in  
39 any lottery game.

40 3. Other than as specifically provided in s. 24.112, an  
41 electronic computer ~~ne~~ terminal or electronic device may not be  
42 used by the player to play for any lottery game ~~which may be~~  
43 ~~operated solely by the player without the assistance of the~~  
44 ~~retailer.~~

45 4. The department may not authorize the operation of a  
46 lottery game in which the winner is chosen on the basis of the  
47 activities or outcomes of one or more sporting events.

48 Section 2. Subsection (3) is added to section 24.107,  
49 Florida Statutes, to read:

50 24.107 Advertising and promotion of lottery games.—

51 (3) Beginning January 1, 2021, all advertisements and  
 52 promotions of lottery games under this chapter, excluding multi-  
 53 state lottery games, must include a warning that meets all of  
 54 the following requirements:

55 (a) If on television, on the Internet, or in any other  
 56 electronic medium, appear in black font on a white background  
 57 and occupy at least 5 percent of the total surface area of the  
 58 advertisement or promotion.

59 (b) If in print, including in a newspaper, in a magazine,  
 60 or on a billboard, appear in prominent text and occupy at least  
 61 5 percent of the total surface area of the advertisement or  
 62 promotion.

63 (c) If on radio, be audibly announced at the conclusion of  
 64 the advertisement or promotion.

65 (d) Contain the following message: "PLAY RESPONSIBLY."

66 Section 3. Subsection (8) is added to section 24.111,  
 67 Florida Statutes, to read:

68 24.111 Vendors; disclosure and contract requirements.—

69 (8) Beginning January 1, 2021, all contracts subject to  
 70 this section must contain a provision that requires the vendor  
 71 to place or print a warning on all lottery tickets sold under  
 72 this chapter, excluding multi-state lottery tickets. The warning  
 73 must meet all of the following requirements:

74 (a) Appear in prominent text on the front side of the  
 75 lottery ticket and occupy at least 5 percent of the total

76 surface area of the lottery ticket.

77 (b) Contain the following message: "PLAY RESPONSIBLY."

78 (c) Appear on all lottery tickets printed on or after  
 79 January 1, 2022.

80 Section 4. Subsection (3) of section 24.121, Florida  
 81 Statutes, is amended to read:

82 24.121 Allocation of revenues and expenditure of funds for  
 83 public education.—

84 (3) The funds remaining in the Operating Trust Fund after  
 85 transfers to the Educational Enhancement Trust Fund shall be  
 86 used for:

87 (a) The payment of administrative expenses of the  
 88 department. These expenses shall include all costs incurred in  
 89 the operation and administration of the lottery and all costs  
 90 resulting from any contracts entered into for the purchase or  
 91 lease of goods or services required by the lottery, including,  
 92 but not limited to:

93 1.~~(a)~~ The compensation paid to retailers.~~†~~

94 2.~~(b)~~ The costs of supplies, materials, tickets,  
 95 independent audit services, independent studies, data  
 96 transmission, advertising, promotion, incentives, public  
 97 relations, communications, security, bonding for retailers,  
 98 printing, distribution of tickets, and reimbursing other  
 99 governmental entities for services provided to the lottery.~~†~~ ~~and~~

100 3.~~(c)~~ The costs of any other goods and services necessary

101 | ~~to implement for effectuating the purposes of this act.~~  
 102 |       (b) The annual payment of \$500,000 for services related to  
 103 | the prevention of compulsive and addictive gambling. The  
 104 | department shall, subject to competitive bidding, contract for  
 105 | such services, which must include an advertising program to  
 106 | encourage responsible gambling practices and to publicize a  
 107 | telephone help line. The terms of any contract for such services  
 108 | must include accountability standards that must be met by a  
 109 | private provider. The failure of a private provider to meet any  
 110 | material terms of the contract, including the accountability  
 111 | standards, shall constitute a breach of contract or grounds for  
 112 | nonrenewal.  
 113 |       Section 5. This act shall take effect July 1, 2020.

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 Technology Appropriations Subcommittee  
3 Representative Robinson offered the following:  
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5 **Amendment (with title amendment)**

6 Remove lines 80-112  
7  
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10 **T I T L E A M E N D M E N T**

11 Remove lines 15-21 and insert:  
12 requirements for such warning; providing an effective date.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1047 Construction Materials Mining Activities  
**SPONSOR(S):** Avila  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1618

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	11 Y, 0 N	Melkun	Moore
2) Government Operations & Technology Appropriations Subcommittee		Helpling 	Topp 
3) State Affairs Committee			

**SUMMARY ANALYSIS**

The Miami-Dade County Lake Belt Area (Lake Belt) encompasses 77.5 square miles of land at the western edge of the Miami-Dade County urban area. The Lake Belt provides the largest source of high quality limestone in Florida, supplying approximately 60 million tons of rock annually. The limestone mined from the Lake Belt provides the base material needed for concrete, asphalt, and road construction. The process of extracting limestone and sand suitable for producing construction materials is referred to as construction materials mining.

For hard rock formations, explosives may be used to break up the rock into sizes that may be more easily mined. The use of explosives in mining activities is regulated by the federal and state governments in order to limit the strength of explosions to ensure the explosions do not cause damage to nearby buildings or structures. In Florida, the State Fire Marshal, through the Division of State Fire Marshal (division) within the Department of Financial Services (DFS), has the sole and exclusive authority to regulate the use of explosives in conjunction with construction materials mining. Currently, mining companies are required to hire independent seismologists to monitor explosions and must provide a report reflecting the strength of each explosion to DFS upon request. DFS does not independently monitor blasts resulting from the use of explosives for construction materials mining activities.

The bill creates a monitoring and reporting pilot program for the use of explosives (pilot program) within the division to monitor and report each blast resulting from the use of explosives for construction materials mining activities in Miami-Dade County. The bill requires the State Fire Marshal to hire or contract with seismologists to monitor and report each blast and provides restrictions on who may be hired.

The bill requires a person or entity that engages in construction materials mining activities to provide written notice to the State Fire Marshal of the use of an explosive for such activities in Miami-Dade County before the detonation of the explosive.

For Fiscal Year 2020-21, the bill appropriates a recurring sum of \$600,000 and a nonrecurring sum of \$440,000 from the General Revenue Fund to the State Fire Marshal to implement the pilot program.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

###### Miami-Dade County Lake Belt Area

The Miami-Dade County Lake Belt Area (Lake Belt) encompasses 77.5 square miles of land at the western edge of the Miami-Dade County urban area.<sup>1</sup> Generally, the Lake Belt is bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west, and Tamiami Trail to the south, and it also includes certain lands south of Tamiami Trail.<sup>2</sup> The Lake Belt provides the largest source of high quality limestone in Florida, supplying approximately 60 million tons of rock annually.<sup>3</sup> The limestone mined from the Lake Belt provides the base material needed for concrete, asphalt, and road construction.<sup>4</sup> The process of extracting limestone and sand suitable for producing construction materials is referred to as construction materials mining.<sup>5</sup>

The Lake Belt is an environmentally sensitive region, as the majority of the area consists of wetlands that were once part of the historical Everglades watershed. The area also overlays the Biscayne Aquifer, which is designated as a sole source aquifer by the Environmental Protection Agency (EPA).<sup>6</sup> In addition, the Miami-Dade Northwest Wellfield (NWWF) is located along the eastern edge of the Lake Belt and is comprised of 15 water supply wells that withdraw water from the Biscayne Aquifer. The NWWF is the major source of drinking water for Miami-Dade County, supplying approximately 40 percent of the county's water needs.<sup>7</sup>

###### Regulation of Explosives

For hard rock formations, explosives may be used to break up the rock into sizes that may be more easily mined.<sup>8</sup> The use of explosives in mining activities is regulated by the federal and state governments in order to limit the strength of explosions to ensure the explosions do not cause damage to nearby buildings or structures. On the federal level, Title 30 of the United States Code and its various implementing regulations establish the basic safety, health, certification, reporting, and environmental requirements for the use of explosives in mining operations.

In Florida, the State Fire Marshal, through the Division of State Fire Marshal (division) within the Department of Financial Services (DFS), has the sole and exclusive authority to promulgate standards, limits, and regulations regarding the use of explosives in conjunction with construction materials mining.<sup>9</sup> This authority includes the operation, handling, licensure, and permitting of explosives. The

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<sup>1</sup> South Florida Water Management District, *Lake Belt Mitigation Committee*, available at <https://www.sfwmd.gov/our-work/lake-belt-committee> (last visited Jan. 9, 2020).

<sup>2</sup> Section 373.4149(3), F.S.

<sup>3</sup> White Rock Quarries, *Facts About the Florida and Miami-Dade Limestone Industry*, available at <http://www.wrquarries.com/facts-about-the-florida-and-miami-dade-limestone-industry/> (last visited Jan. 10, 2020).

<sup>4</sup> Section 373.4149, F.S.

<sup>5</sup> Section 552.30(1), F.S.

<sup>6</sup> EPA, *Sole Source Aquifers*, available at <https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b> (last visited Jan. 10, 2020).

“Sole source aquifer” means an aquifer that is needed to supply 50 percent or more of the drinking water for a given aquifer service area for which there are no reasonably available alternative sources should the aquifer become contaminated. EPA, *Overview of the Drinking Water Sole Source Aquifer Program*, available at [https://www.epa.gov/dwssa/overview-drinking-water-sole-source-aquifer-program#What\\_Is\\_SSA](https://www.epa.gov/dwssa/overview-drinking-water-sole-source-aquifer-program#What_Is_SSA) (last visited Jan. 10, 2020).

<sup>7</sup> Miami-Dade County Department of Environmental Resources Management, *Northwest Wellfield Watershed Protection Plan* (2000), 1, available at <https://www.sfwmd.gov/sites/default/files/documents/wfldpln.pdf> (last visited Jan. 10, 2020).

<sup>8</sup> Florida Department of Environmental Protection, *Limestone, Shell, Dolomite*, available at <https://floridadep.gov/water/mining-mitigation/content/limestone-shell-dolomite> (last visited Jan. 10, 2020).

<sup>9</sup> Section 552.30(1), F.S.

DFS rules establish limitations for ground vibration, frequency, intensity, blast pattern, and air blast as well as restrictions on when explosives may be used. The DFS rules also establish requirements for a mining company to provide notice to local governments in which the entity will conduct mining activities.<sup>10</sup>

The State Fire Marshal has the authority to delegate the monitoring and enforcement of the use of explosives by mining companies to local governments. This authority includes allowing local governments to assess and collect reasonable fees for the purpose of monitoring and enforcing the current limits of explosions used for mining purposes.<sup>11</sup>

Currently, mining companies are required to hire independent seismologists<sup>12</sup> to monitor explosions and must provide a report reflecting the strength of each explosion to DFS upon request. DFS does not independently monitor blasts resulting from the use of explosives for construction materials mining activities. The State Fire Marshal may restrict the quantity and use of explosives at any location within the state if the State Fire Marshal determines the use of such explosives is likely to cause injury to life or property. In making such determination, the State Fire Marshal must consider the distance of blasting activity to structures, the use and occupancy of structures near blasting activity, the geology of the area, and the type of construction used in structures near blasting activities.<sup>13</sup>

According to DFS, 31 of the 90 construction materials mining permits issued in the state are within Miami-Dade County, making it the county with the highest number of such permits.<sup>14</sup>

### 2018 Mining Study

In 2017, the Legislature appropriated funds to require the State Fire Marshal to contract for a study to review whether the statewide ground vibration limits established in DFS rule for construction materials mining activities are still appropriate and to review any legitimate claims for damages caused by such mining activities.<sup>15</sup> The study was required to include a review of measured amplitudes and frequencies, structure responses, theoretical analyses of material strengths and strains, and assessments of home damages.<sup>16</sup>

The study was completed in 2018 and concluded that the mines were in compliance with both federal and state maximum blasting vibration limits, but recommended including frequency as part of the state vibration limits as well as conducting a follow-up study to evaluate minimum seismograph specifications.<sup>17</sup>

### **Effect of the Bill**

The bill creates a monitoring and reporting pilot program for the use of explosives (pilot program) within the division to monitor and report each blast resulting from the use of explosives for construction materials mining activities in Miami-Dade County. The bill requires the State Fire Marshal to hire or contract with seismologists to monitor and report each blast, including, at a minimum, monitoring and reporting the ground vibration, frequency, intensity, air blast, and time and date of the blast. The bill

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<sup>10</sup> Rule 69A-2.024, F.A.C.; *see also*, Florida Department of Environmental Protection, *Limestone, Shell, Dolomite*, available at <https://floridadep.gov/water/mining-mitigation/content/limestone-shell-dolomite> (last visited Jan. 10, 2020).

<sup>11</sup> Section 552.30(2), F.S.

<sup>12</sup> “Independent seismologist” means an individual whose function includes vibration and air overpressure measurement and the analysis and evaluation of their effects upon structures. A seismologist is not considered independent if he or she is an employee of the mining permit holder, blaster, or user; or any entity subject to regulation under s. 552.30, F.S. Rule 69A-2.024(2)(b), F.A.C.

<sup>13</sup> Section 552.211(3), F.S.; r. 69A-2.024(13), F.A.C.

<sup>14</sup> Email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, Department of Financial Services, Re: Construction Mine Blasting, (Dec. 10, 2019) (on file with the Agriculture & Natural Resources Subcommittee).

<sup>15</sup> Chapter 2017-70, Laws of Fla.; s. 552.30(3), F.S.

<sup>16</sup> Section 552.30(3), F.S.

<sup>17</sup> RESPEC, *Construction Materials Mining Activities Consultation and Study Preparation Services* (July 2018), 90, available at <https://www.myfloridacfo.com/Division/SFM/BFP/documents/MineBlastingStudy.pdf> (last visited Jan. 17, 2020).

further requires the State Fire Marshal to make the reports available to the public on the division's website.

The bill prohibits the State Fire Marshal from hiring or contracting with a seismologist for the pilot program who:

- Is an employee of or under contract with a person or entity that engages in or contracts for construction materials mining activities; or
- Has engaged in dishonest practices relating to the collection or analysis of data or information regarding the use of explosives in construction materials mining activities.

The bill requires a person or entity that engages in construction materials mining activities to provide written notice to the State Fire Marshal of the use of an explosive for such activities in Miami-Dade County before the detonation of the explosive.

The bill requires the State Fire Marshal to adopt rules to implement and enforce the pilot program.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 552.30, F.S., to create the pilot program.

Section 2. Appropriates \$600,000 of recurring and \$440,000 of nonrecurring funds from the General Revenue Fund.

Section 3. Provides an effective date of October 1, 2020.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:

None.

2. Expenditures:

The bill appropriates funds for the purpose of implementing the pilot program. For Fiscal Year 2020-21, the bill appropriates a recurring sum of \$600,000 and a nonrecurring sum of \$440,000 from the General Revenue Fund to the Division of State Fire Marshal to implement the pilot program.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**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 requires the division to adopt rules to implement the pilot program.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.



26 Fire Marshal shall have the sole and exclusive authority to  
 27 adopt ~~promulgate~~ standards, limits, and regulations regarding  
 28 the use of explosives used for ~~in conjunction with~~ construction  
 29 materials mining activities. Such authority to regulate use  
 30 shall include, directly or indirectly, the operation, handling,  
 31 licensure, or permitting of explosives and setting standards or  
 32 limits, including, but not limited to, ground vibration,  
 33 frequency, intensity, blast pattern, air blast and time, date,  
 34 occurrence, and notice restrictions. As used in this section,  
 35 the term "construction materials mining activities" means the  
 36 extraction of limestone and sand suitable for production of  
 37 construction aggregates, sand, cement, and road base materials  
 38 for shipment offsite by any person or company primarily engaged  
 39 in the commercial mining of any such natural resources.

40 (2) The State Fire Marshal shall establish statewide  
 41 ground vibration limits for construction materials mining  
 42 activities which conform to those limits established in the  
 43 United States Bureau of Mines, Report of Investigations 8507,  
 44 Appendix B - Alternative Blasting Level Criteria (Figure B-1).  
 45 The State Fire Marshal may, at his or her sole discretion, by  
 46 rule or formal agreement, delegate to the applicable  
 47 municipality or county, the monitoring and enforcement  
 48 components of regulations governing the use of explosives, as  
 49 recognized in this section, by construction materials mining  
 50 activities. Such delegation may include the assessment and

51 collection of reasonable fees by the municipality or county for  
 52 the purpose of carrying out the delegated activities.

53 (3) The State Fire Marshal is directed to conduct or  
 54 contract for a study to review whether the established statewide  
 55 ground vibration limits for construction materials mining  
 56 activities are still appropriate and to review any legitimate  
 57 claims paid for damages caused by such mining activities. The  
 58 study must include a review of measured vibration amplitudes and  
 59 frequencies, structure responses, theoretical analyses of  
 60 material strength and strains, and assessments of home damages.

61 (a) The study shall be funded using the specified portion  
 62 of revenues received from the water treatment plant upgrade fee  
 63 pursuant to s. 373.41492.

64 (b) The State Fire Marshal shall submit a report to the  
 65 Governor, the President of the Senate, and the Speaker of the  
 66 House of Representatives by December 1, 2016, which contains the  
 67 findings of the study and any recommendations.

68 (4)(a) The Legislature finds that construction materials  
 69 mining activities require the use of explosives to fracture the  
 70 material before excavation. The use of explosives results in  
 71 physical ground vibrations and air blasts that may affect other  
 72 property owners in the vicinity of the mining site. It is in the  
 73 best interest of the public to ensure that blasts resulting from  
 74 the use of explosives for construction materials mining  
 75 activities are accurately monitored and reported to ensure the

76 blasts do not exceed physical ground vibration and air blast  
 77 limits. The Legislature further finds that more permits for  
 78 construction materials mining activities have been issued to  
 79 entities operating in Miami-Dade County than any other county in  
 80 the state.

81 (b) A monitoring and reporting pilot program for the use  
 82 of explosives is created within the Division of the State Fire  
 83 Marshal to monitor and report each blast resulting from the use  
 84 of explosives for construction materials mining activities in  
 85 Miami-Dade County.

86 (c) The State Fire Marshal shall hire or contract with  
 87 seismologists to monitor and report each blast resulting from  
 88 the use of explosives for construction materials mining  
 89 activities in Miami-Dade County, including, at a minimum,  
 90 monitoring and reporting the ground vibration, frequency,  
 91 intensity, air blast, and time and date of the blast. The State  
 92 Fire Marshal shall post the reports on the division's website to  
 93 be available to the public.

94 (d) A seismologist hired or contracted by the State Fire  
 95 Marshal as required by this subsection may not:

96 1. Be an employee of or under contract with a person who  
 97 engages in or contracts for construction materials mining  
 98 activities.

99 2. Have engaged in dishonest practices relating to the  
 100 collection or analysis of data or information regarding the use

101 of explosives in construction materials mining activities.

102 (e) A person who engages in construction materials mining  
 103 activities shall provide written notice to the State Fire  
 104 Marshal of the use of an explosive for construction materials  
 105 mining activities in Miami-Dade County before the detonation of  
 106 the explosive.

107 (f) The State Fire Marshal shall adopt rules to implement  
 108 and enforce this subsection.

109 Section 2. For fiscal year 2020-2021, the recurring sum of  
 110 \$600,000 and the nonrecurring sum of \$440,000 are appropriated  
 111 from the General Revenue Fund to the Division of State Fire  
 112 Marshal within the Department of Financial Services for the  
 113 purpose of implementing the monitoring and reporting pilot  
 114 program for the use of explosives in Miami-Dade County pursuant  
 115 to s. 552.30(4), Florida Statutes.

116 Section 3. This act shall take effect October 1, 2020.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1047 (2020)

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 Technology Appropriations Subcommittee  
3 Representative Avila offered the following:  
4

5 **Amendment**

6 Remove lines 110-111 and insert:  
7 \$600,000 and the nonrecurring sum of \$440,000 from the General  
8 Revenue Fund and the nonrecurring sum of \$1,000,000 from the  
9 Insurance Regulatory Trust Fund, are appropriated to the  
10 Division of State Fire



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1161 Local Licensing  
**SPONSOR(S):** Plakon  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 890

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	10 Y, 3 N	Brackett	Anstead
2) Government Operations & Technology Appropriations Subcommittee		Helpling	CH Topp BDT
3) State Affairs Committee			

### SUMMARY ANALYSIS

General law directs a number of state agencies and licensing boards to regulate many professions and occupations. General law can also authorize or preempt local regulation of professions and occupations, which is typically done specifically and individually by subject matter, business type, or occupation. General law determines whether local governments are able to regulate occupations and businesses, and to what degree. If state law preempts regulation for an occupation, then, generally, local governments may not regulate that occupation. If an occupation is not regulated by the state, local governments are able to regulate such occupations and impose licensing requirements.

Construction contractors and specialty contractors are licensed and regulated by the state. However, the state gives local governments the specific authority to license and regulate certain contractors and gives contractors the choice: become certified with the state and practice statewide or become registered in a local jurisdiction and only practice in that jurisdiction. Jobs that fall outside the definition or job scope of contractors and specialty contractors are able to be regulated and licensed by local jurisdictions. If licensed by a local jurisdiction, that licensee is only allowed to perform that job in the jurisdiction in which the license is held.

The bill allows an individual with a local noncontractor license – for occupations that are not currently regulated by the state but are only required by specific local governments – to work on real property, to work within the scope of the license throughout the state with no geographic limitation, and without obtaining an additional local license, taking an examination, or paying additional fees. The bill allows local governments to have disciplinary authority over licensees who are licensed in another jurisdiction. However, the bill does not expand the authorization for registered local contractors or specialty contractors to work anywhere in Florida.

The bill would allow local licensees, such as, cabinet makers, drywall, fence and deck installers, and rain gutter, interior remodeling, masonry, painting, paving, stuccoing, vinyl siding, and decorative tile and granite workers, to be licensed in one jurisdiction but work anywhere in the state.

The bill requires DBPR to maintain a local licensing website to allow the public to review the licensing status of local licensees. The bill also requires a local government to transmit specified local licensing information to DBPR or to maintain its own website that DBPR may link to.

Local licensees working outside the jurisdiction in which they were issued a local license must provide consumers seeking services from the licensee sufficient information to access local licensing information and to verify the licensee's status in the original licensing jurisdiction.

DBPR can absorb the cost of maintaining a local licensing website within existing resources. The bill has an indeterminate, but likely insignificant, fiscal impact on local governments. See *Fiscal Analysis and Economic Impact Statement*.

The bill provides an effective date of October 1, 2020.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.<sup>1</sup> Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by vote of the electors.<sup>2</sup>

Likewise, municipalities<sup>3</sup> have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform functions, provide services, and exercise any power for municipal purposes, except as otherwise provided by law.<sup>4</sup>

##### Revenue Sources Authorized in the Florida Constitution<sup>5</sup>

The Florida Constitution limits the ability of local governments to raise revenue for their operations. The Florida Constitution provides:

No tax shall be levied except in pursuance of law. No state ad valorem taxes<sup>6</sup> shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.<sup>7</sup>

Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.<sup>8</sup>

However, not all local government revenue sources are taxes requiring general law authorization. When a county or municipal revenue source is imposed by ordinance, the question is whether the charge is a valid assessment or fee. As long as the charge is not deemed a tax, the imposition of the assessment or fee by ordinance is within the constitutional and statutory home rule powers of county and municipal governments. If the charge is not a valid assessment or fee, it is deemed a revenue source requiring general law authorization.

##### Revenue Sources Based on Home Rule Authority

Pursuant to home rule authority, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. A

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<sup>1</sup> Art. VIII, s. 1(f), Fla. Const.

<sup>2</sup> Art. VIII, s. 1(g), Fla. Const.

<sup>3</sup> A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term “municipality” may be used interchangeably with the terms “town,” “city,” and “village.”

<sup>4</sup> Art. VIII, s. 2(b), Fla. Const. *See also* s. 166.021(1), F.S.

<sup>5</sup> The Florida Legislature, Office of Economic and Demographic Research, 2019 Local Government Financial Information Handbook, p. 1, <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf> (Jan. 8, 2020).

<sup>6</sup> “Ad valorem tax” means a tax based upon the assessed value of property.” Section 192.001(1), F.S.

<sup>7</sup> Art. VII, s. 1(a), Fla. Const.

<sup>8</sup> Art. VII, s. 9(a), Fla. Const.

regulatory fee should not exceed the regulated activity's cost and is generally required to be applied solely to the regulated activity's cost for which the fee is imposed.<sup>9</sup>

### Preemption

State preemption precludes a local government from exercising authority in a particular area, and requires consistency with the state constitution or state statute.<sup>10</sup> A local government enactment may be found inconsistent with state law if (1) the Legislature has preempted a particular subject area to the state or (2) the local regulation conflicts with a state statute.<sup>11</sup>

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.<sup>12</sup> Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.<sup>13</sup> When local ordinances have been enacted in the face of state preemption, the effect has been to find such ordinances null and void.<sup>14</sup>

Implied preemption is a legal doctrine created to address those situations in which the courts may have been concerned by the legislature's failure to expressly preempt areas which, for all intents and purposes, seemed dominated by the state. Findings of implied preemption are for a very narrow class of areas in which the state has legislated pervasively.<sup>15</sup>

### Professions and Occupations

General law directs a number of state agencies and licensing boards to regulate certain professions and occupations. For example, the Department of Business and Professional Regulation (DBPR) currently regulates approximately 25 professions and occupations.<sup>16</sup>

General law determines whether local governments are able to regulate occupations and businesses, and to what degree.<sup>17</sup> If state law preempts regulation for an occupation, then, generally, local governments may not regulate that occupation.<sup>18</sup> For example, Florida law currently preempts local regulation with regard to the following:

- assessing local fees associated with providing proof of licensure as a contractor, or providing, recording, or filing evidence of worker's compensation insurance coverage by a contractor;<sup>19</sup>
- assessing local fees and rules regarding low-voltage alarm system projects;<sup>20</sup>
- tobacco and nicotine products;<sup>21</sup>
- firearms, weapons, and ammunition;<sup>22</sup>
- employment benefits;<sup>23</sup>

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<sup>9</sup> EDR, *supra* note 5.

<sup>10</sup> James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009), available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Jan 8, 2020).

<sup>11</sup> *Id.*

<sup>12</sup> See *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).

<sup>13</sup> *Mulligan*, 934 So. 2d at 1243.

<sup>14</sup> See, e.g., *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

<sup>15</sup> Wolf and Bolinder, *supra* note 17.

<sup>16</sup> S. 20.165, F.S.

<sup>17</sup> Art. VIII, s. 1(f), Fla. Const.; Art. VII, s. 9(a), Fla. Const.; Art. VIII, s. 2(b), Fla. Const.; s. 166.021(1), F.S.

<sup>18</sup> *Id.*; Wolf and Bolinger, *supra* note 17.

<sup>19</sup> S. 553.80(7)(d), F.S.

<sup>20</sup> S. 489.503(14), F.S.

<sup>21</sup> Ch. 569, F.S., and s. 386.209, F.S.

<sup>22</sup> S. 790.33(1), F.S.

<sup>23</sup> S. 218.077, F.S.

- polystyrene products;<sup>24</sup>
- public lodging establishments and public food service establishments;<sup>25</sup> and
- disposable plastic bags.<sup>26</sup>

Conversely, Florida law also specifically grants local jurisdictions the right to regulate businesses, occupations and professions in certain circumstances.<sup>27</sup> For example, Florida law specifically authorizes regulations relating to:

- zoning and land use;
- the levy of “reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter”,<sup>28</sup>
- the levy of local business taxes;<sup>29</sup>
- building code inspection fees,<sup>30</sup>
- tattoo establishments;<sup>31</sup>
- massage practices;<sup>32</sup>
- child care facilities;<sup>33</sup>
- taxis and other vehicles for hire,<sup>34</sup> and
- waste and sewage collection.<sup>35</sup>

If an occupation is not regulated or preempted by the state, local governments are generally able to regulate such occupations and impose licensing requirements. Some counties and municipalities choose to require certain local licenses, while others do not.

There are vast differences from jurisdiction to jurisdiction as to what work requires a license and what does not.<sup>36</sup> For example, only seven counties require a cabinetry specialty license; and nineteen counties require a painting license. There are also vast differences from jurisdiction to jurisdiction on what is required to obtain such licenses. For example, Hillsborough County requires an applicant to have a year of experience and pay a \$280 licensing fee to obtain a painting license. Other counties do not require any experience. Broward County requires a license for residential interior remodeling that requires three years of experience, and an exam, and a fee. Such licenses are not required by the state for interior remodeling, painting, or cabinetry.

### Construction Industry Licensing Board

The Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.<sup>37</sup>

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<sup>24</sup> S. 500.90, F.S.

<sup>25</sup> S. 509.032, F.S.

<sup>26</sup> S. 403.7033, F.S.

<sup>27</sup> *Supra* note 25.

<sup>28</sup> S. 166.221, F.S.

<sup>29</sup> Ch. 205, F.S.

<sup>30</sup> S. 166.222, F.S.

<sup>31</sup> S. 381.00791, F.S.

<sup>32</sup> S. 480.052, F.S.

<sup>33</sup> S. 402.306, F.S.

<sup>34</sup> S. 125.01(1)(n), F.S.

<sup>35</sup> S. 125.01(1)(k), F.S.

<sup>36</sup> Information obtained by the Business and Professions Subcommittee in December 2018 after review of county websites and obtaining certain information from each county in response to information requests by committee staff.

<sup>37</sup> *See* s. 489.107, F.S.

Construction contractors are either certified or registered by the CILB. The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate. The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.<sup>38</sup>

“Certified contractors” are individuals who have met competency requirements for a particular trade category and holds a geographically unlimited certificate of competency from the DBPR that allows them to contract in any jurisdiction in the state.<sup>39</sup>

“Certified specialty contractors” are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.

“Registered contractors” are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued. Registered contractors must register their license with the CILB after obtaining a local license.<sup>40</sup>

The CILB also creates certified specialty contractor’s license through rulemaking. Certified specialty contractors are contractors whose scope of work is limited to a particular phase of construction that is a subset of a certified contractor’s scope of work, such as a solar water heating specialty contractor<sup>41</sup> or a building demolition specialty contractor.<sup>42</sup> Certified specialty contractors are permitted to practice in any jurisdiction in the state.<sup>43</sup>

The CILB licenses the following types of contractors:<sup>44</sup>

Statutory Licenses	Specialty Licenses
<ul style="list-style-type: none"> <li>• Air Conditioning- Classes A, B, and C</li> <li>• Building</li> <li>• General</li> <li>• Internal Pollutant Storage Tank Lining Applicator</li> <li>• Mechanical</li> <li>• Plumbing</li> <li>• Pollutant Storage Systems</li> <li>• Pool/Spa- Classes A, B, and C</li> <li>• Precision Tank Tester</li> <li>• Residential</li> <li>• Roofing</li> <li>• Sheet Metal</li> <li>• Solar</li> <li>• Underground Excavation</li> </ul>	<ul style="list-style-type: none"> <li>• Drywall</li> <li>• Demolition</li> <li>• Gas Line</li> <li>• Glass and Glazing</li> <li>• Industrial Facilities</li> <li>• Irrigation</li> <li>• Marine</li> <li>• Residential Pool/Spa Servicing</li> <li>• Solar Water Heating</li> <li>• Structure</li> <li>• Swimming Pool Decking</li> <li>• Swimming Pool Excavation</li> <li>• Swimming Pool Finishes</li> <li>• Swimming Pool Layout</li> <li>• Swimming Pool Piping</li> <li>• Swimming Pool Structural</li> <li>• Swimming Pool Trim</li> </ul>

<sup>38</sup> S. 489.107, F.S.

<sup>39</sup> Ss. 489.105(8) and 489.113(1), F.S.

<sup>40</sup> Ss. 489.105, & 489.117, F.S.

<sup>41</sup> Rule 61G4-15.012, F.A.C.

<sup>42</sup> Rule 61G4-15.038, F.A.C.

<sup>43</sup> S. 489.105(3)(q), F.S.

<sup>44</sup> S. 489.105(a)-(q), F.S.; Rr. 61G4-15.015-040, F.A.C.

### *Fee for Certification and Registration*

As provided in s. 489.109, F.S., an applicant for certification as a contractor is required to pay an initial application fee not to exceed \$150, and, if an examination cost is included in the application fee, the combined amount may not exceed \$350. For an applicant to register as a contractor, the initial application fee may not exceed \$100, and the initial registration fee and the renewal fee may not exceed \$200.<sup>45</sup> The initial application fee and the renewal fee is \$50 for an application to certify or register a business.<sup>46</sup>

Fees must be adequate to ensure the continued operation of the CILB, and must be based on estimates of DBPR of the revenue required to implement part I of ch. 489, F.S., and statutory provisions regulating the construction industry.<sup>47</sup>

All certified and registered contractors must pay a fee of \$4 to DBPR at the time of application or renewal, to fund projects relating to the building construction industry or continuing education programs offered to building construction industry workers in Florida, to be selected by the Florida Building Commission.<sup>48</sup>

### *Local Regulation of Construction Trades*

Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction.<sup>49</sup> Local jurisdictions are not barred from issuing and requiring construction licenses that are outside the scope of practice for a certified contractor or certified specialty contractor, such as painting and fence erection licenses. Local governments may only collect licensing fees that cover the cost of regulation.<sup>50</sup>

Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license. However, persons holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or a certified specialty contractor are not required to register with DBPR.<sup>51</sup>

According to DBPR:<sup>52</sup>

Other than the [Division I and Division II] state-certified or state-registered professions, other professional trades of construction are not subject to regulation at the state level. However, under local government authority, counties and municipalities have created additional local categories for regulation within the construction industry (i.e., painting, flooring, cabinetry, masonry, plastering, and other construction-related trades). Under this local regulation patchwork, varying regulations and fees often create burdens and limitations on a professional's ability to operate freely and competitively between jurisdictions.

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<sup>45</sup> S. 489.109, F.S. Any applicant who seeks certification as a contractor under part I of ch. 489, F.S., by taking a practical examination must pay as an examination fee the actual cost incurred by DBPR in developing, preparing, administering, scoring, score reporting, and evaluating the examination, if the examination is conducted by DBPR.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> S. 489.109(3), F.S.

<sup>49</sup> Ss. 489.117, 489.131 F.S.

<sup>50</sup> EDR *supra*, note 5 at 1.

<sup>51</sup> Ss. 489.105, & 489.117(4), F.S.

<sup>52</sup> Department of Business and Professional Regulation, Agency Analysis of 2020 House Bill 1161, p. 3 (Oct. 1, 2020).

## Effect of Proposed Changes

The bill allows an individual with a valid local license for a noncontractor job issued by a local government in Florida, to work within the scope of that local license throughout the state with no geographic limitation, and without obtaining an additional local license, taking an examination, or paying additional fees.

The expanded authorization for local licensees to work in any jurisdiction in the state does not include performance of construction contracting work that requires certification or registration from the CILB, such as roofing or plumbing.

The bill defines:

- “Local government” to mean a county or municipality in within the state.
- “Local license” to mean a license, registration, or similar permit issued and required by a local government for a noncontractor job scope.

The bill also defines “noncontractor job scope” to mean any category of work that is done to real property, which does not require certification or registration by the CILB. The term includes, but is not limited to, the performance or installation of:

- Awnings;
- Cabinetry;
- Carpentry;
- Caulking;
- Debris removal;
- Driveways;
- Drywall;
- Fence and decks;
- Flooring;
- Garage doors;
- Glass and glazing;
- Gunite;
- Gutters and downspouts;
- Hurricane shutters;
- Insulation;
- Interior remodeling;
- Irrigation;
- Landscaping;
- Lightning protection systems;
- Masonry;
- Nonelectrical signs;
- Painting;
- Paving;
- Plastering;
- Stuccoing;
- Tennis courts;
- Vinyl siding; and
- Ornamental or decorative iron, stone, tile, marble, granite, or terrazzo.

The bill provides that local governments have disciplinary authority over noncontractor licensees who are licensed by another local government but work in that jurisdiction. The bill provides that such disciplinary authority includes, but is not limited to, suspension and revocation of a licensee’s ability to operate within the local government’s jurisdiction.

Local governments must forward disciplinary orders to a licensee's original licensing jurisdiction. The original licensing jurisdiction may take action against a licensee for being disciplined by another local licensing jurisdiction or for violating the scope of practice for the noncontractor license.

The bill requires DBPR to create and maintain an online local licensing information system (website) to allow the public to review the licensing status of local licensees. The bill also requires a local government that issues local noncontractor licenses to transmit specified local licensing information to DBPR. The information must be transmitted by a local government at least monthly and include, at a minimum, the name, business name, address, license number, and licensing status of the local licensee. Alternatively, a local government may maintain a website that allows DBPR to link to it.

Local licensees working outside the jurisdiction in which they are licensed must provide consumers seeking services from the licensee sufficient information to allow access to local licensing information and to verify the licensee's status in the licensee's original licensing jurisdiction.

The bill does not affect the ability of local governments to collect business taxes.

The bill provides an effective date of October 1, 2020.

**B. SECTION DIRECTORY:**

**Section 1:** Creates s. 489.1175, F.S.,

**Section 2:** Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

1. Revenues:

None.

2. Expenditures:

According to DBPR, "The bill requires the Department of Business and Professional Regulation to create and maintain a local licensing information system available through the internet whereby the public may review the licensing status of individuals holding a local license. Recurring cost of hosting the portal in a cloud-based internet environment is estimated at \$25,000-\$50,000 annually."<sup>53</sup> These technology costs can be absorbed within existing resources.<sup>54</sup>

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

1. Revenues:

Indeterminate.

2. Expenditures:

Indeterminate. The bill requires local governments to transmit specified local licensing information to DBPR or maintain a website that allows DBPR to link to it. However, any such expenditures are likely to be insignificant.

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<sup>53</sup> Department of Business and Professional Regulation, Agency Analysis of 2020 House Bill 1161, p. 5 (Oct. 1, 2020).

<sup>54</sup> Email from Colton Madill, Deputy Legislative Affairs Director, Department of Business and Professional Regulation, RE: 1161, (Feb. 6, 2020).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive impact on people with noncontractor local licenses because they will be able to practice throughout the state without having to pay additional fees or take additional exams.

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 the bill requires a local government that issues local licenses to transmit specified local licensing information to DBPR, or instead maintain a website that allows DBPR to link to it. It also takes away a local jurisdiction's ability to require a license and a licensing fee if the worker is licensed in another jurisdiction but maintains the ability of that jurisdiction to discipline such licensees. However, an exemption may apply given that laws having an insignificant fiscal impact are exempt from the requirements of Art. VII, s. 18 of the Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that noncontractor licenses only apply to job scopes that do not require certification or registration by the CILB. However, the term "noncontractor job scope" includes work that requires a certification or registration as contractor in certain circumstances. For example, certain drywall and glass & glazing work requires licensure as a contractor. Additionally, there is a certified specialty glass & glazing license<sup>55</sup> and a certified specialty gypsum drywall license.<sup>56</sup> This could result in confusion about what jobs fall under the scope of a noncontractor.

The bill does not provide a remedy or a cause of action if a local government decides to enforce a licensure fee or exam against a noncontractor licensee who has obtained a license from another local government in the state. It is not clear how a local licensee will be able to obtain relief in such situations.

The bill also does not provide a remedy to DBPR if a local government does not update DBPR about the status of its noncontractor licensees. It is not clear what happens if a local government revokes or suspends a noncontractor license, but fails to notify DBPR or update its website.

The bill defines a "local license" as a license, registration, or similar permit issued by a local government. However, the term "permit" is generally used in part I of ch. 489, F.S., to mean a building permit. This could lead to confusion about what a permit is for purposes of determining what a noncontractor license includes and whether local jurisdictions can still require a permit.

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<sup>55</sup> Rule 61G4-15.018, F.A.C.

<sup>56</sup> Rule 61G4-15.017, F.A.C.

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

1                                   A bill to be entitled  
 2       An act relating to local licensing; creating s.  
 3       489.1175, F.S.; defining terms; providing that  
 4       individuals who hold valid, active local licenses may  
 5       work within the scope of such licenses in any local  
 6       government jurisdiction without needing to meet  
 7       certain additional licensing requirements; requiring  
 8       licensees to provide consumers with certain  
 9       information; providing that local governments have  
 10      disciplinary jurisdiction over such licensees;  
 11      requiring local governments to forward any  
 12      disciplinary orders to a licensee's original licensing  
 13      jurisdiction for further action; requiring the  
 14      Department of Business and Professional Regulation to  
 15      create and maintain a local licensing information  
 16      system; requiring local governments to provide the  
 17      department with specified information; providing an  
 18      effective date.  
 19  
 20    Be It Enacted by the Legislature of the State of Florida:  
 21  
 22            Section 1.   Section 489.1175, Florida Statutes, is created  
 23    to read:  
 24            489.1175 Local licensing; portability.-  
 25            (1) As used in this section, the term:

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

26        (a) "Noncontractor job scope" means any category of work  
 27 that is done to real property and that does not substantially  
 28 correspond to the job scope of one of the contractor categories  
 29 defined in s. 489.105(3)(a)-(o). The term includes, but is not  
 30 limited to, the performance or installation of awnings,  
 31 cabinetry, carpentry, caulking, debris removal, driveways,  
 32 drywall, fence and decks, flooring, garage doors, glass and  
 33 glazing, gunite, gutters and downspouts, hurricane shutters,  
 34 insulation, interior remodeling, irrigation, landscaping,  
 35 lightning protection systems, masonry, nonelectrical signs,  
 36 painting, paving, plastering, stuccoing, tennis courts, vinyl  
 37 siding and ornamental or decorative iron, stone, tile, marble,  
 38 granite, or terrazzo.

39        (b) "Local government" means a county or municipality  
 40 within this state.

41        (c) "Local license" means a license, registration, or  
 42 similar permit issued and required by a local government for a  
 43 noncontractor job scope.

44        (2)(a) An individual who holds a valid, active local  
 45 license may work within the scope of such license in any local  
 46 government jurisdiction in addition to the original licensing  
 47 jurisdiction without having to obtain an additional local  
 48 license, take an additional local license examination, or pay an  
 49 additional local license fee. This section does not affect the  
 50 ability of any local government to collect business taxes,

51 subject to s. 205.065.

52 (b) A licensee who works in the jurisdiction of a local  
 53 government under the portability protections of this section  
 54 shall provide a consumer who seeks his or her services  
 55 information sufficient for the consumer to access the  
 56 department's local licensing information under subsection (4),  
 57 so that the consumer may verify his or her license status in the  
 58 relevant licensing jurisdiction.

59 (3) A local government has the same disciplinary  
 60 jurisdiction over an individual operating outside his or her  
 61 original licensing jurisdiction pursuant to this section as it  
 62 has over its own local licensees, including, but not limited to,  
 63 the authority to suspend or revoke an individual licensee's  
 64 ability to operate within its jurisdiction. A local government  
 65 shall forward any disciplinary orders to an individual's  
 66 original licensing jurisdiction for further action, as  
 67 appropriate. The original licensing jurisdiction may take action  
 68 against a licensee for being disciplined by another local  
 69 licensing jurisdiction or for violating the original licensing  
 70 jurisdiction's noncontractor job scope in another jurisdiction.

71 (4)(a) The department shall create and maintain an online  
 72 local licensing information system whereby the public may review  
 73 the licensing status of individuals holding a local license.

74 (b) A local government that issues a local license must  
 75 provide information to the department which is necessary to

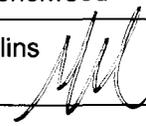
76 | maintain the local licensing information system with respect to  
77 | the jurisdiction of such local government. Information provided  
78 | must include at least the name, business name, address, license  
79 | number, and licensing status of the local licensee. A local  
80 | government may fulfill this obligation by maintaining its own  
81 | website that the department may link to, or by providing the  
82 | information at least monthly to the department.

83 |       Section 2. This act shall take effect October 1, 2020.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1391 Technology Innovation  
**SPONSOR(S):** Insurance & Banking Subcommittee, Grant, J.  
**TIED BILLS:** HB 1393, HB 1395 **IDEN./SIM. BILLS:** SB 1870

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	14 Y, 0 N, As CS	Hinshelwood	Cooper
2) Government Operations & Technology Appropriations Subcommittee		Mullins 	Topp 
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Department of Management Services (DMS) oversees information technology governance and security for the executive branch of state government. The Division of State Technology (DST), a subdivision of DMS subject to its control and supervision, implements DMS's duties and policies in this area. The bill:

- Abolishes DST, establishes the Florida Digital Service (FDS) in its place, and re-creates the Division of Telecommunications within DMS.
- Places new duties and responsibilities under the newly-created FDS and expands the duties and responsibilities currently assigned to DMS and DST, including the development and implementation of enterprise information technology systems.
- Tasks FDS with procuring a credential service provider for identity management and verification services.
- Requires that revenue generated from allowing qualified entities to utilize state identity data be deposited into the working capital trust fund.
- Removes the option for cabinet agencies to adopt alternative information technology architecture, project management, and reporting standards than those developed by DMS, and requires cabinet agencies instead to adhere to enterprise architecture standards developed by the FDS.
- Creates the Enterprise Architecture Advisory Council as a 13-member advisory council within DMS.
- Removes DST as the head of the E911 system in Florida, and places the Division of Telecommunications as its new head.

The Office of Financial Regulation (OFR) regulates money services businesses, which include money transmitters and payment instrument sellers. The bill creates the Financial Technology Sandbox within the OFR to allow a person to make an innovative financial product or service available to consumers as a money transmitter or payment instrument seller during a sandbox period that is initially not longer than 24 months but which can be extended one time for up to 12 months. The sandbox provides regulatory flexibility by permitting the OFR to waive specified statutes and corresponding rule requirements. The OFR may initially authorize a sandbox participant to provide the financial product or service to a maximum of 15,000 consumers but may authorize up to 25,000 consumers if the sandbox participant demonstrates adequate financial capitalization, risk management process, and management oversight. In addition to other statutes that the OFR may waive, the OFR may modify the net worth, corporate surety bond, and collateral deposit amounts required for money transmitters and payment instrument sellers. The modified amounts must be in such lower amounts that the OFR determines to be commensurate with specified considerations regarding the sandbox application and commensurate with the maximum number of consumers authorized to receive the product or service under the sandbox.

The bill has no fiscal impact on local governments and an indeterminate fiscal impact on state government and the private sector.

The bill provides an effective date of January 1, 2021.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### BACKGROUND

##### Department of Management Services (DMS)

##### *Information Technology (IT) Management*

DMS<sup>1</sup> oversees IT<sup>2</sup> governance and security for the executive branch of state government. The Division of State Technology (DST), created in 2019 through the merger of the former Agency for State Technology (AST) and the DMS Division of Telecommunications<sup>3</sup>, is a subdivision of DMS subject to its control and supervision that implements DMS's duties and policies in this area.<sup>4</sup> The head of DST is appointed by the Secretary of Management Services<sup>5</sup> and serves as the state chief information officer (CIO).<sup>6</sup> The CIO must be a proven effective administrator with at least 10 years of executive level experience in the public or private sector.<sup>7</sup> DST "provides the State with guidance and strategic direction on a variety of transformational technologies, such as cybersecurity and data analytics, while also providing the following critical services: voice, data, software, and much more."<sup>8</sup> The duties and responsibilities of DMS and DST include:

- Developing IT policy for the management of the state's IT resources;
- Establishing IT architecture standards and assisting state agencies<sup>9</sup> in complying with those standards;
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects. The standards must include:
  - Performance measurements and metrics that reflect the status of an IT project based on a defined and documented project scope, cost, and schedule;
  - Methodologies for calculating acceptable variances in the projected versus actual scope, schedule, or cost of an IT project; and
  - Reporting requirements
- Performing project oversight of all state agency IT projects that have a total cost of \$10 million or more, as well as cabinet agency IT projects that have a total cost of \$25 million or more, and are funded in the General Appropriations Act or any other law;
- Recommending potential methods for standardizing data across state agencies which will promote interoperability and reduce the collection of duplicative data;
- Recommending open data<sup>10</sup> technical standards and terminologies for use by state agencies;

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<sup>1</sup> See s. 20.22, F.S.

<sup>2</sup> The term "information technology" means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form. S. 282.0041(14), F.S.

<sup>3</sup> Ch. 2019-118, L.O.F.

<sup>4</sup> S. 20.22(2)(a), F.S.

<sup>5</sup> The Secretary of Management Services serves as the head of DMS and is appointed by the Governor, subject to confirmation by the Senate. S. 20.22(1), F.S.

<sup>6</sup> S. 20.22(2)(b), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> *State Technology*, FLORIDA DEPARTMENT OF MANAGEMENT SERVICES, [https://www.dms.myflorida.com/business\\_operations/state\\_technology](https://www.dms.myflorida.com/business_operations/state_technology) (last visited Jan. 27, 2020).

<sup>9</sup> See s. 282.0041(27), F.S.

<sup>10</sup> The term "open data" means data collected or created by a state agency and structured in a way that enables the data to be fully discoverable and usable by the public. The term does not include data that are restricted from public distribution based on federal or state privacy, confidentiality, and security laws and regulations or data for which a state agency is statutorily authorized to assess a fee for its distribution. S. 282.0041(18), F.S.

- Establishing best practices for the procurement of IT products and cloud-computing services in order to reduce costs, increase the quality of data center services, or improve government services; and
- Establishing a policy for all IT-related state contracts, including state term contracts for IT commodities, consultant services, and staff augmentation services.<sup>11</sup>

### *State Data Center and the Cloud-First Policy*

In 2008, the Legislature created the State Data Center (SDC) system, established two primary data centers,<sup>12</sup> and required that agency data centers be consolidated into the primary data centers by 2019.<sup>13</sup> Data center consolidation was completed in FY 2013-14. In 2014, the two primary data centers were merged in law to create the SDC within then-existing AST.<sup>14</sup> The SDC is established within DMS and DMS is required to provide operational management and oversight of the SDC.<sup>15</sup>

The SDC relies heavily on the use of state-owned equipment installed at the SDC facility located in the state's Capital Circle Office Center in Tallahassee for the provision of data center services. The SDC is led by the director of the SDC.<sup>16</sup> The SDC is required to do the following:

- Offer, develop, and support the services and applications defined in service-level agreements executed with its customer entities;<sup>17</sup>
- Maintain performance of the state data center by ensuring proper data backup, data backup recovery, disaster recovery, and appropriate security, power, cooling, fire suppression, and capacity;
- Develop and implement business continuity and disaster recovery plans, and annually conduct a live exercise of each plan;
- Enter into a service-level agreement with each customer entity to provide the required type and level of service or services;
- Assume administrative access rights to resources and equipment, including servers, network components, and other devices, consolidated into the SDC;
- Show preference, in its procurement process, for cloud-computing solutions that minimize or do not require the purchasing, financing, or leasing of SDC infrastructure, and that meet the needs of customer agencies, reduce costs, and that meet or exceed the applicable state and federal laws, regulations, and standards for IT security; and
- Assist customer entities in transitioning from state data center services to third-party cloud-computing services procured by a customer entity.

A state agency is prohibited, unless exempted<sup>18</sup> elsewhere in law, from:

- Creating a new agency computing facility or data center;
- Expanding the capability to support additional computer equipment in an existing agency computing facility or data center; or
- Terminating services with the SDC without giving written notice of intent to terminate 180 days before termination.<sup>19</sup>

<sup>11</sup> S. 282.0051, F.S.

<sup>12</sup> The Northwood Shared Resource Center and the Southwood Shared Resource Center. Ss. 282.204-282.205, F.S. (2008).

<sup>13</sup> Ch. 2008-116, L.O.F.

<sup>14</sup> Ch. 2014-221, L.O.F.

<sup>15</sup> See s. 282.201, F.S.

<sup>16</sup> S. 282.201, F.S.

<sup>17</sup> A "customer entity" means an entity that obtains services from DMS. S. 282.0041(7), F.S.

<sup>18</sup> The following entities are exempt from the use of the SDC: the Department of Law Enforcement, the Department of the Lottery's Gaming Systems Design and Development in the Office of Policy and Budget, regional traffic management centers, the Office of Toll Operations of the Department of Transportation, the State Board of Administration, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, and the Florida Housing Finance Corporation. S. 282.201(2), F.S.

<sup>19</sup> S. 282.201(3), F.S.

Cloud computing is “a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g. networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction.”<sup>20</sup> In 2019, the Legislature mandated that each agency adopt a cloud-first policy that first considers cloud computing solutions in its technology sourcing strategy for technology initiatives or upgrades whenever possible or feasible.<sup>21</sup> Each agency must, just like the SDC, show a preference for cloud-computing solutions in its procurement process and adopt formal procedures for the evaluation of cloud-computing options for existing applications, technology initiatives, or upgrades.<sup>22</sup>

### *IT Security*

The IT Security Act<sup>23</sup> establishes requirements for the security of state data and IT resources.<sup>24</sup> DMS must designate a state chief information security officer (CISO) to oversee state IT security.<sup>25</sup> The CISO must have expertise in security and risk management for communications and IT resources.<sup>26</sup> DMS is tasked with the following duties regarding IT security:

- Establishing standards and processes consistent with generally accepted best practices for IT security, including cybersecurity.
- Adopting rules that safeguard an agency’s data, information, and IT resources to ensure availability, confidentiality, and integrity and to mitigate risks.
- Developing, and annually updating, a statewide IT security strategic plan that includes security goals and objectives for the strategic issues of IT security policy, risk management, training, incident management, and disaster recovery planning including:
  - Identifying protection procedures to manage the protection of an agency’s information, data, and IT resources;
  - Detecting threats through proactive monitoring of events, continuous security monitoring, and defined detection processes; and
  - Recovering information and data in response to an IT security incident.
- Developing and publishing for use by state agencies an IT security framework.
- Reviewing the strategic and operational IT security plans of executive branch agencies annually.<sup>27</sup>

The IT Security Act requires the heads of state agencies to designate an information security manager to administer the IT security program of the state agency.<sup>28</sup> In part, the heads of state agencies are also required to annually submit to DMS the state agency’s strategic and operational IT security plans; conduct, and update every three years, a comprehensive risk assessment to determine the security threats to the data, information, and IT resources of the state agency; develop, and periodically update, written internal policies and procedures; and ensure that periodic internal audits and evaluations of the agency’s IT security program for the data, information, and IT resources of the state agency are conducted.<sup>29</sup>

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<sup>20</sup> *Special Publication 800-145*, National Institute of Standards and Technology, <https://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-145.pdf> (last visited Jan. 27, 2020). The term “cloud computing” has the same meaning as provided in Special Publication 800-145 issued by the National Institute of Standards and Technology (NIST). S. 282.0041(5), F.S.

<sup>21</sup> S. 282.206(1), F.S.

<sup>22</sup> S. 282.206(2) & (3), F.S.

<sup>23</sup> S. 282.318, F.S., is cited as the “Information Technology Security Act.”

<sup>24</sup> S. 282.318, F.S.

<sup>25</sup> S. 282.318(3), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> S. 282.318(3), F.S.

<sup>28</sup> S. 282.318(4)(a), F.S.

<sup>29</sup> S. 282.318(4), F.S.

## *Enhanced 911 (E911) System*

DST oversees the E911 system in Florida.<sup>30</sup> DST is required by law to develop, maintain, and implement the statewide emergency communications E911 system plan.<sup>31</sup> The plan must provide for:

- The public agency emergency communications requirements for each entity of local government<sup>32</sup> in the state.
- A system to meet specific local government requirements, which must include law enforcement, firefighting, and emergency medical services, and may include other emergency services such as poison control, suicide prevention, and emergency management services.
- Identification of the mutual aid agreements necessary to obtain an effective E911 system.
- A funding provision that identifies the cost to implement the E911 system.<sup>33</sup>

DST is responsible for implementing and coordinating the plan, and must adopt any necessary rules and schedules related to public agencies<sup>34</sup> implementing and coordinating the plan.<sup>35</sup>

The Secretary of Management Services, or his or her designee, is the director of the E911 system and also serves as chair of the E911 Board.<sup>36</sup> The director of the E911 system is authorized to coordinate the activities of the system with state, county, local, and private agencies.<sup>37</sup> The director must consult, cooperate, and coordinate with local law enforcement agencies.<sup>38</sup> An “E911 Board,” composed of eleven members, is established in law to administer funds derived from fees imposed on each user of voice communications service with a Florida billing address (place of primary use).<sup>39</sup> The Governor appoints five members who are county 911 coordinators and five members from the telecommunications industry.<sup>40</sup> The E911 Board makes disbursements from the Emergency Communications Number E911 System Trust Fund to county governments and wireless providers.<sup>41</sup>

### **Agency Procurements**

Agency<sup>42</sup> procurements of commodities or contractual services exceeding \$35,000 are governed by statute and rule and require use of one of the following three types of competitive solicitations,<sup>43</sup> unless otherwise authorized by law:<sup>44</sup>

- Invitation to bid (ITB): An agency must use an ITB when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required.<sup>45</sup>

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<sup>30</sup> S. 365.171, F.S. Prior to 2019, the Division of Telecommunications, established in statute as the Technology Program within DMS, was the entity with oversight over E911. See ch. 2019-118, L.O.F.

<sup>31</sup> S. 365.171(4), F.S.

<sup>32</sup> “Local government” means any city, county, or political subdivision of the state and its agencies. S. 365.171(3)(b), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> “Public agency” means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services. S. 365.171(3)(c), F.S.

<sup>35</sup> S. 365.171(4), F.S.

<sup>36</sup> S. 365.172(5)(a), F.S.

<sup>37</sup> S. 365.171(5), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> S. 365.172(5), F.S.

<sup>40</sup> S. 365.172(5)(b), F.S.

<sup>41</sup> S. 365.172(5) & (6), F.S.

<sup>42</sup> Section 287.012(1), F.S., defines “agency” as any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. “Agency” does not include the university and college boards of trustees or the state universities and colleges.

<sup>43</sup> Section 287.012(6), F.S., defines “competitive solicitation” as the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

<sup>44</sup> See s. 287.057, F.S.

<sup>45</sup> S. 287.057(1)(a), F.S.

- Request for proposals (RFP): An agency must use an RFP when the purposes and uses for which the commodity, group of commodities, or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables.<sup>46</sup>
- Invitation to negotiate (ITN): An ITN is a solicitation used by an agency that is intended to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors with which the agency may negotiate in order to receive the best value.<sup>47</sup>

DMS is responsible for procuring state term contracts for commodities and contractual services from which state agencies must make purchases.<sup>48</sup>

### **Digital Driver License**

Current law provides for the establishment of a digital proof of driver license. Specifically, the Department of Highway Safety and Motor Vehicles (DHSMV) is required to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license.<sup>49</sup> The statute authorizes DHSMV to contract with one or more private entities to develop a digital proof of driver license system.<sup>50</sup>

The digital proof of driver license developed by DHSMV or by an entity contracted by DHSMV must be in such a format as to allow law enforcement to verify the authenticity of the digital proof of driver license.<sup>51</sup> DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.<sup>52</sup> A person may not be issued a digital proof of driver license until he or she has satisfied all of the statutory requirements relating to the issuance of a physical driver license.<sup>53</sup>

Current law also establishes certain penalties for a person who manufactures or possesses a false digital proof of driver license.<sup>54</sup> Specifically, a person who:

- Manufactures a false digital proof of driver license commits a felony of the third degree, punishable by up to five years in prison<sup>55</sup> and a fine not to exceed \$5,000,<sup>56</sup> or punishable under the habitual felony offender statute.<sup>57</sup>
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by up to 60 days in prison<sup>58</sup> and a fine not to exceed \$500.<sup>59</sup>

The 2019 General Appropriations Act in Specific Appropriation 2743 provides funding for DHSMV to procure a credential service provider.<sup>60</sup> On December 17, 2019, DHSMV issued a Request for Quote (RFQ) for a credential service provider solution to support digital driver license qualified entities and electronic credential service providers. DHSMV intends to contract for this service by March 2020.<sup>61</sup>

### **Regulation of Money Transmitters and Payment Instrument Sellers**

<sup>46</sup> S. 287.057(1)(b), F.S.

<sup>47</sup> S. 287.057(1)(c), F.S.

<sup>48</sup> Ss. 287.042(2)(a) and 287.056(1), F.S.

<sup>49</sup> S. 322.032(1), F.S.

<sup>50</sup> S. 322.032(2), F.S.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> S. 322.032(3), F.S.

<sup>54</sup> S. 322.032(4), F.S.

<sup>55</sup> S. 775.082, F.S.

<sup>56</sup> S. 775.083(1)(c), F.S.

<sup>57</sup> S. 775.084, F.S.

<sup>58</sup> S. 775.082, F.S.

<sup>59</sup> S. 775.083(1)(e), F.S.

<sup>60</sup> Operational Work Plan for proviso in 2019-115 s. 2743, Laws of Florida, submitted on 12/16/2019 by DHSMV (on file with the subcommittee).

<sup>61</sup> Request for Quote FLHSMV-RFQ-078-19 (on file with the subcommittee).

## State Regulation

The Office of Financial Regulation (OFR) regulates banks, credit unions, other financial institutions, finance companies, and the securities industry.<sup>62</sup> The OFR's Division of Consumer Finance licenses and regulates various aspects of the non-depository financial services industries, including money services businesses (MSBs) regulated under ch. 560, F.S. Money transmitters and payment instrument sellers are two types of MSBs, and both are regulated under part II of ch. 560, F.S.

A money transmitter "receives currency,<sup>63</sup> monetary value,<sup>64</sup> or payment instruments<sup>65</sup> for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country."<sup>66</sup> A payment instrument seller sells, issues, provides, or delivers a payment instrument.<sup>67</sup> State and federally chartered financial depository institutions, such as banks and credit unions, are exempt from licensure as an MSB.<sup>68</sup>

An applicant for licensure under ch. 560, F.S., must file an application together with an application fee of \$375.<sup>69</sup> The license must be renewed every two years by paying a renewal fee of \$750.<sup>70</sup> Money transmitters and payment instrument sellers may operate through authorized vendors by providing the OFR specified information about the authorized vendor any by paying a fee of \$38 per authorized vendor location at the time of application and renewal.<sup>71</sup> A money transmitter or payment instrument seller may also engage in the activities authorized for check cashers<sup>72</sup> and foreign currency exchangers<sup>73</sup> without paying additional licensing fees.<sup>74</sup>

A money transmitter or payment instrument seller must at all times:

- Have a net worth of at least \$100,000 and an additional net worth of \$10,000 per location in this state, up to a maximum of \$2 million.<sup>75</sup>
- Have a corporate surety bond in an amount between \$50,000 and \$2 million depending on the financial condition, number of locations, and anticipated volume of the licensee.<sup>76</sup> In lieu of a corporate surety bond, the licensee may deposit collateral such as cash or interest-bearing stocks and bonds with a federally insured financial institution.<sup>77</sup>
- Possess permissible investments, such as cash and certificates of deposit, with an aggregate market value of at least the aggregate face amount of all outstanding money transmissions and payment instruments issued or sold by the licensee or an authorized vendor in the United States.<sup>78</sup> The OFR may waive the permissible investments requirement if the dollar value of a

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<sup>62</sup> S. 20.121(3)(a)2., F.S.

<sup>63</sup> "Currency" means the coin and paper money of the United States or of any other country which is designated as legal tender and which circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes United States silver certificates, United States notes, and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country. S. 560.103(11), F.S.

<sup>64</sup> "Monetary value" means a medium of exchange, whether or not redeemable in currency. S. 560.103(21), F.S.

<sup>65</sup> "Payment instrument" means a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, payment of money, or monetary value whether or not negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit. S. 560.103(29), F.S.

<sup>66</sup> S. 560.103(23), F.S.

<sup>67</sup> S. 560.103(30) & (34); *supra* note 62.

<sup>68</sup> S. 560.104, F.S.

<sup>69</sup> Ss. 560.141 & 560.143, F.S.

<sup>70</sup> *Id.*; s. 560.142, F.S.

<sup>71</sup> *Id.*; ss. 560.203, 560.205, & 560.208, F.S.

<sup>72</sup> "Check casher" means a person who sells currency in exchange for payment instruments received, except travelers checks. S. 560.103(6), F.S.

<sup>73</sup> "Foreign currency exchanger" means a person who exchanges, for compensation, currency of the United States or a foreign government to currency of another government. S. 560.103(17), F.S.

<sup>74</sup> S. 560.204(2), F.S.

<sup>75</sup> S. 560.209, F.S.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> S. 560.210, F.S.

licensee's outstanding payment instruments and money transmitted do not exceed the bond or collateral deposit.<sup>79</sup>

While MSBs are generally subject to federal anti-money laundering laws,<sup>80</sup> Florida law contains many of the same anti-money laundering reporting requirements and recordkeeping requirements with the added benefit of state enforcement. An MSB applicant must have an anti-money laundering program which meets the requirements of federal law.<sup>81</sup> Pursuant to the Florida Control of Money Laundering in Money Services Business Act, an MSB must maintain certain records of each transaction involving currency or payments instruments in order to deter the use of a money services business to conceal proceeds from criminal activity and to ensure the availability of such records for criminal, tax, or regulatory investigations or proceedings.<sup>82</sup> An MSB must keep records of each transaction occurring in this state which it knows to involve currency or other payment instruments having a greater value than \$10,000; to involve the proceeds of specified unlawful activity; or to be designed to evade the reporting requirements of ch. 896, F.S., or the Florida Control of Money Laundering in Money Services Business Act.<sup>83</sup> The OFR may take administrative action against an MSB for failure to maintain or produce documents required by ch. 560, F.S., or federal anti-money laundering laws.<sup>84</sup> The OFR may also take administrative action against an MSB for other violations of federal anti-money laundering laws such as failure to file suspicious activity reports.<sup>85</sup>

A money transmitter or payment instrument seller must maintain specified records for at least five years, including the following:<sup>86</sup>

- A daily record of payment instruments sold and money transmitted.
- A general ledger containing all asset, liability, capital, income, and expense accounts, which shall be posted at least monthly.
- Daily settlement records received from authorized vendors.
- Monthly financial institution statements and reconciliation records.
- Records of outstanding payment instruments and money transmitted.
- Records of each payment instrument paid and money transmission delivered.
- A list of the names and addresses of all of the licensee's authorized vendors.
- Records that document the establishment, monitoring, and termination of relationships with authorized vendors and foreign affiliates.
- Any additional records, as prescribed by rule, designed to detect and prevent money laundering.

### *Federal Regulation*

The Financial Crimes Enforcement Network of the U.S. Department of Treasury (FinCEN) serves as the nation's financial intelligence unit and is charged with safeguarding the U.S. financial system from the abuses of money laundering, terrorist financing, and other financial crimes.<sup>87</sup> The basic concept underlying FinCEN's core activities is "follow the money" because criminals leave financial trails as they try to launder the proceeds of crimes or attempt to spend their ill-gotten profits.<sup>88</sup> To that end, the FinCEN administers the Bank Secrecy Act (BSA).<sup>89</sup> The BSA regulations require banks and other financial institutions, including MSBs, to take a number of precautions against financial crime.<sup>90</sup> The

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<sup>79</sup> *Id.*

<sup>80</sup> 31 C.F.R. pt. 1022

<sup>81</sup> s. 560.1401, F.S.

<sup>82</sup> s. 560.123, F.S.

<sup>83</sup> *Id.*

<sup>84</sup> s. 560.114, F.S.

<sup>85</sup> *Id.*

<sup>86</sup> Ss. 560.1105 & 560.211, F.S.

<sup>87</sup> FinCEN, *What We Do*, <https://www.fincen.gov/what-we-do> (last visited Jan. 31, 2020).

<sup>88</sup> *Id.*

<sup>89</sup> Many of the federal provisions of the BSA have been codified in ch. 560, F.S., which has provided the OFR with additional compliance and enforcement tools.

<sup>90</sup> *Id.*

BSA regulations require financial institutions to establish an anti-money laundering program (such as verifying customer identity), maintain certain records (such as transaction related data), and file reports (such as suspicious activity reports and currency transaction reports) that have been determined to have a high degree of usefulness in criminal, tax, and regulatory investigations, as well as in certain intelligence and counter-terrorism matters.<sup>91</sup>

Generally, an MSB is required to register with FinCEN, regardless of whether the MSB is licensed with the state, if it conducts more than \$1,000 in business with one person in one or more transactions on the same day, in one or more of the following services: money orders, traveler's checks, check cashing, currency dealing or exchange.<sup>92</sup> However, if a business provides money transfer services in any amount, it is required to be registered.<sup>93</sup>

FinCEN's BSA regulations define "money transmission services" as "the acceptance of currency, funds, or *other value that substitutes for currency* from one person and the transmission of currency, funds, or *other value that substitutes for currency* to another location or person by any means."<sup>94</sup> Depending on the facts and circumstances surrounding a transaction, a person transmitting virtual currency may fall under FinCEN's BSA regulations.<sup>95</sup>

Federal law also criminalizes money transmission if the money transmitting business:<sup>96</sup>

- Is operated without a license in a state where such unlicensed activity is subject to criminal sanctions;
- Fails to register with FinCEN; or
- Otherwise involves the transportation or transmission of funds that are known to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity.

## **Financial Technology**

Financial technology, often referred to as "FinTech", encompasses a wide array of innovation in the financial services space. FinTech is technology-enabled innovation in financial services that could result in new business models, applications, processes or products with an associated material effect on the provision of financial services.<sup>97</sup> Technological innovation holds great promise for the provision of financial services, with the potential to increase market access, the range of product offerings, and convenience while also lowering costs to clients.<sup>98</sup> Greater competition and diversity in lending, payments, insurance, trading, and other areas of financial services can create a more efficient and resilient financial system.<sup>99</sup> Drivers of FinTech innovations include technology, regulation, and evolving consumer preferences, including customization.<sup>100</sup>

FinTech innovation is often thought to be synonymous with disruption of the traditional financial services market structure and its providers, such as banks. However, to date, the relationship between incumbent financial institutions and FinTech firms appears to be largely complementary and cooperative in nature.<sup>101</sup> FinTech firms have generally not had sufficient access to the low-cost funding

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<sup>91</sup> *Id.*

<sup>92</sup> 31 C.F.R. § 1010.100 & 1022.380.

<sup>93</sup> *Id.*

<sup>94</sup> 31 C.F.R. § 1010.100.

<sup>95</sup> FinCEN Guidance, *Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies*, FIN-2019-G001 (May 9, 2019), <https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf> (last visited Jan. 31, 2020).

<sup>96</sup> 31 U.S.C. § 1960.

<sup>97</sup> Financial Stability Board, *FinTech and market structure in financial services: Market developments and potential financial stability implications* (Feb. 14, 2019), <https://www.fsb.org/2019/02/fintech-and-market-structure-in-financial-services-market-developments-and-potential-financial-stability-implications/> (last visited Jan. 31, 2020).

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

or the customer base necessary to pose a serious competitive threat to established financial institutions in mature financial market segments.<sup>102</sup> Partnering allows FinTech firms to viably operate while still being relatively small and, depending on the jurisdiction and the business model, unburdened by some financial regulation while still benefitting from access to incumbents' client base.<sup>103</sup> At the same time, incumbents benefit from access to innovative technologies that provide a competitive edge.<sup>104</sup> Yet there are exceptions to this trend, as some FinTech firms have established inroads in credit provision and payments.<sup>105</sup>

## EFFECT OF THE BILL

### State Information Technology

The bill abolishes DST and establishes the Florida Digital Service (FDS) in its place. The FDS is a subdivision of DMS the mission of which is to “create innovative solutions that securely modernize state government and achieve value through digital transformation and interoperability.” The bill places new duties and responsibilities under the newly-created FDS as well as expanding the duties and responsibilities currently assigned to DMS and DST. The bill provides that FDS is tasked with the following *new* duties and responsibilities:

- Create and maintain a comprehensive indexed data catalog;
- Develop and publish a data dictionary for each agency;
- Develop solutions for authorized, mandated, or encouraged use cases in collaboration with the enterprise;<sup>106</sup>
- Review, confirm, and document use cases across the enterprise architecture (EA);<sup>107</sup>
- Develop, publish, and manage an application programming interface to facilitate integration throughout the enterprise;
- Facilitate collaborative analysis of enterprise architecture data to improve service delivery;
- Provide a testing environment in which any newly developed solution can be tested for compliance with the enterprise architecture and for functionality assurance before deployment;
- Create the functionality necessary for a secure ecosystem of data interoperability that is compliant with the enterprise architecture and allows for a qualified entity to access the stored data; and
- Develop a process to receive written notice from the state agencies within the enterprise of any planned or existing procurement of an IT project which is subject to governance by the EA; and
- Develop a process to intervene in any planned procurement so that it complies with the EA.
- Requires the state CIO appoint a chief data officer (CDO). The CDO reports to the CIO and must be a proven and experienced executive and is included in the Senior Management Service class of the Florida Retirement System;
- Requires the FDS to develop an enforceable and comprehensive enterprise architecture for the enterprise that:
  - Recognizes the unique needs of those within the enterprise and results in the publication of standards and terminologies, procurement guidelines, and the facilitation of digital interoperability;
  - Establishes a comprehensive framework in support of the state's cloud-first policy that accounts for the needs and responsibilities of agencies while defining how technology benefits services the overall mission of the enterprise;

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<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> The bill defines “enterprise” to mean the collection of state agencies as defined in s. 282.0041, F.S., except that the term includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Financial Services, and the judicial branch of government.

<sup>107</sup> The bill defines “enterprise architecture” to mean a comprehensive operational framework that contemplates the needs and assets of the enterprise to support interoperability across state government.

- Addresses how IT infrastructure may be modernized to achieve current and future cloud-first objectives;
- Allows enterprise architecture to be enforced to ensure stewardship of tax dollars; and
- Makes available data and information relating to the enterprise architecture.
- Requires the FDS to architect and deploy applications or solutions to existing enterprise obligations in a controlled and phased approach including:
  - Digital licenses, including full identification management;
  - Interoperability that enables supervisors of elections to authenticate voter eligibility in real time at the point of service;
  - Motor vehicle insurance cancellation integration between insurers and DHSMV;
  - Interoperability solutions between agencies including, but not limited to, the Department of Health, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Department of Elderly Affairs, and the Department of Children and Families.

The bill makes the following changes to the duties and responsibilities of FDS currently in law:

- Expands the types of agency projects over which FDS has oversight from state agency IT projects that have a total cost of \$10 million or more and cabinet agency IT projects that have a total cost of \$25 million or more, to projects meeting those thresholds with *any* technology component;
- Requires FDS to Identify opportunities for standardization and consolidation of IT services that support interoperability and the state's cloud-first policy;
- Requires FDS to develop and implement other payment mechanisms to recover the cost of SDC services through charges to the applicable customer entities;
- Eliminates the requirement that FDS conduct an annual market analysis to determine whether the state's approach to SDC services is the most effective and cost-efficient manner by which customer entities can acquire such services;
- Requires the Secretary of Management Services appoint a state CIO who will administer the FDS but adds the requirement that the state CIO be included in the Senior Management Service class of the Florida Retirement System.

In addition to the duties described above, FDS is also tasked with procuring a credential service provider (CSP). The CSP is a provider that supplies secure identity management and verification services based on open standards to qualified entities. DMS is required to enter into agreements with electronic credential providers (ECP) that would have the technological capabilities necessary to integrate with the CSP as well as:

- Ensure secure validation and authentication of data;
- Meet usage criteria;
- Agree to terms and conditions, privacy policies, and uniform remittance terms relating to the consumption of an digital driver license or identification; and
- Include clear, enforceable, and significant penalties for violating the agreements.

The bill provides that the agreements between DMS and the CSP, ESP, and other qualified entities<sup>108</sup> must be based on the per-data-call<sup>109</sup> or subscription charges to validate and authenticate a digital license or identification card. The revenue generated must be collected by DMS and deposited in the working capital trust fund for distribution pursuant to legislative appropriation. However, the revenue may not derived from sources other than the per-data-call or subscription charges. Once a qualified entity or an ECP signs the EA terms of service and privacy policy, the FDS must provide appropriate

<sup>108</sup> The bill defines "qualified entity" to mean a public or private entity or individual that enters into a binding agreement with DMS, meets usage criteria, agrees to terms and conditions, and is subsequently and prescriptively authorized by the department to access data under the terms of that agreement.

<sup>109</sup> The bill defines "data-call" to mean an electronic transaction with the CSP that verifies the authenticity of a digital identity by querying enterprise data.

access to the stored data to facilitation authorized integrations to collaboratively, less expensively, or at no cost to the taxpayer, solve enterprise use cases.

The bill creates the Enterprise Architecture Advisory Council (Council) as an advisory council<sup>110</sup> within DMS. The Council is composed 13 members appointed to staggered terms of four years. The Council consists of:

- The Governor or his or her designee;
- Three additional designees of the Governor;
- The director of the Office of Policy and Budget in the Executive Office of the Governor or his or her designee;
- The Secretary of Management Services or his or her designee;
- The state CIO or his or her designee;
- The Chief Justice of the Florida Supreme Court or his or her designee;
- The President of the Senate or his or her designee;
- The Speaker of the House of Representatives or his or her designee;
- The CIO of the Department of Financial Services or his or her designee;
- The CIO of the Department of Legal Affairs or his or her designee;
- The CIO of the Department of Agriculture and Consumer Services or his or her designee.

The Council is required to meet semiannually beginning October 1, 2020, to discuss implementation, management, and coordination of the EA; identify potential issues and threats with specific use cases; and develop proactive solutions.

The bill creates the Division of Telecommunications within DMS, removes DST as the head of the E911 system in Florida, and places the Division of Telecommunications as its new head.

### **Financial Technology Sandbox**

The bill creates the Financial Technology Sandbox within the OFR to allow financial technology innovators to test new products and services in a supervised, flexible regulatory sandbox, using waivers of specified general law and corresponding rule requirements under defined conditions. The creation of a supervised, flexible regulatory sandbox provides a welcoming business environment for technology innovators and may lead to significant business growth.

The Financial Technology Sandbox allows a person to make an innovative financial product or service available to consumers as a money transmitter or payment instrument seller during a sandbox period that is initially not longer than 24 months but which can be extended one time for up to 12 months. A "financial product or service" is a product or service related to money transmitters and payment instrument sellers, including mediums of exchange that are in electronic or digital form, which is subject to general law or corresponding rule requirements in the enumerated statutes that may be waived by the OFR. "Innovative" means new or emerging technology, or new uses of existing technology which provides a product, service, business model, or delivery mechanism to the public.

The OFR is permitted to waive the following statutes and corresponding rule requirements for purposes of the Financial Technology Sandbox:

- Section 560.1105, F.S., relating to records retention.
- Section 560.118, F.S., relating to reports.
- Section 560.125, F.S., relating to unlicensed activity; penalties. However, the OFR may not waive the portion of the statute that permits only a money services business licensed as a money transmitter or payment instrument seller to appoint an authorized vendor.
- Section 560.128, F.S., relating to customer contacts; license display.

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<sup>110</sup> The term "council" or "advisory council" means an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. S. 20.03(7), F.S.

- Section 560.1401, F.S., relating to licensing standards. However, the OFR may not waive the portions of the statute that require an applicant to be legally authorized to do business in this state, to be licensed with FinCEN (if applicable), and to have an anti-money laundering program in place.
- Section 560.141, F.S., relating to license application. However, the OFR may not waive the portions of the statute that impose a licensing fee, require fingerprints and background checks, and require the applicant to provide a copy of the applicant's anti-money laundering program.
- Section 560.142, F.S., relating to license renewal. However, the OFR may prorate, but may not entirely waive, the license renewal fees for an extension granted under the sandbox.
- Section 560.143(2), F.S., relating to license renewal fees, to the extent necessary for proration of the renewal fee.
- Section 560.205, F.S., relating to additional license application requirements. However, the OFR may not waive portions of the statute requiring an applicant to provide a sample authorized vendor contract (if applicable) and documents demonstrating that the net worth and bond requirements have been fulfilled.
- Section 560.208, F.S., relating to conduct of business. However, the OFR may not waive portions of the statute making a licensee responsible for the acts of its authorized vendors, requiring a licensee to place customer assets in a segregated account in a federally insured financial institution, and requiring a licensee to ensure that money transmitted is available to the designated recipient within ten business days after receipt.
- Section 560.209, F.S., relating to net worth; corporate surety bond; collateral deposit in lieu of bond. However, the OFR may modify, but may not entirely waive, the net worth, corporate surety bond, and collateral deposit amounts. The modified amounts must be in such lower amounts that the OFR determines to be commensurate with specified considerations regarding the sandbox application and commensurate with the maximum number of consumers authorized to receive the financial product or service under the sandbox.

The OFR may grant a waiver if the general law or corresponding rule currently prevents the innovative financial product or service to be made available to consumers. No provision relating to the liability of an incorporator, director, or officer of the applicant is eligible for a waiver. The waiver must not be broader than necessary to accomplish the purposes and standards of the sandbox, as determined by the OFR.

Before filing an application under this section, a substantially affected person may seek a declaratory statement pursuant to s. 120.565, F.S., regarding the applicability of a statute, rule, or agency order to the petitioner's particular set of circumstances.

Before a person applies on behalf of a business entity intending to make an innovative financial product or service available to consumers, the person must obtain the consent of the business entity. A business entity filing an application under this section must be a domestic corporation or other organized domestic entity with a physical presence, other than that of a registered office or agent or virtual mailbox, in this state.

In the sandbox application, the applicant must specify the general law or rule requirements for which a waiver is sought, and the reasons why these requirements prevent the innovative financial product or service from being made available to consumers. The application must also contain the following information, which the OFR must consider in deciding whether to approve or deny an application:

- The nature of the innovative financial product or service proposed to be made available to consumers in the Financial Technology Sandbox, including all relevant technical details.
- The potential risk to consumers and the methods that will be used to protect consumers and resolve complaints during the sandbox period.
- The business plan proposed by the applicant, including a statement regarding the applicant's current and proposed capitalization.

- Whether the applicant has the necessary personnel, adequate financial and technical expertise, and a sufficient plan to test, monitor, and assess the innovative financial product or service.
- Whether any person substantially involved in the development, operation, or management of the applicant's innovative financial product or service has pled no contest to, has been convicted or found guilty of, or is currently under investigation for, fraud, a state or federal securities violation, a property-based offense, or a crime involving moral turpitude or dishonest dealing. A plea of no contest, a conviction, or a finding of guilt must be reported under this subparagraph regardless of adjudication.
- A copy of specified disclosures that will be provided to consumers.
- The financial responsibility of any person substantially involved in the development, operation, or management of the applicant's innovative financial product or service.
- Any other factor that the office determines to be relevant.

The OFR may not approve an application if:

- The applicant had a prior Financial Technology Sandbox application that was approved and that related to a substantially similar financial product or service; or
- Any person substantially involved in the development, operation, or management of the applicant's innovative financial product or service was substantially involved in such with another Financial Technology Sandbox applicant whose application was approved and whose application related to a substantially similar financial product or service.

The OFR must approve or deny in writing an application within 60 days after receiving the completed application, though the OFR and the applicant may jointly agree to extend the time beyond 60 days. The OFR may impose conditions on any approval, consistent with the sandbox. Upon approval of an application, the OFR must specify the general law or rule requirements, or portions thereof, for which a waiver is granted during the sandbox period and the length of the initial sandbox period, not to exceed 24 months.

A person whose Financial Technology Sandbox application is approved shall be deemed licensed under part II of ch. 560, F.S., unless the person's authorization to make the financial product or service available to consumers under the sandbox has been revoked or suspended.

The OFR must post on its website notice of the approval of the application, a summary of the innovative financial product or service, and the contact information of the person making the financial product or service available.

The OFR may, on a case-by-case basis, specify the maximum number of consumers authorized to receive an innovative financial product or service, after consultation with the person who makes the financial product or service available to consumers. The OFR may not authorize more than 15,000 consumers to receive the financial product or service until the sandbox participant has filed the first report required under the sandbox. After the filing of the report, if the person demonstrates adequate financial capitalization, risk management process, and management oversight, the OFR may authorize up to 25,000 consumers to receive the financial product or service.

The person making the financial product or service available must provide a written statement to the consumer, which must contain an acknowledgement from the consumer, of all of the following information:

- The name and contact information of the person making the financial product or service available to consumers.
- That the financial product or service has been authorized to be made available to consumers for a temporary period by the OFR, under the laws of Florida.
- That the state does not endorse the financial product or service.
- That the financial product or service is undergoing testing, may not function as intended, and may entail financial risk.

- That the person making the financial product or service available to consumers is not immune from civil liability for any losses or damages caused by the financial product or service.
- The expected end date of the sandbox period.
- The contact information for the office, and notification that suspected legal violations, complaints, or other comments related to the financial product or service may be submitted to the office.
- Any other statements or disclosures required by rule of the commission which are necessary to further the purposes of this section.

The OFR may enter into an agreement with a state, federal, or foreign regulatory agency to allow persons who make an innovative financial product or service available in this state through the Financial Technology Sandbox to make their products or services available in other jurisdictions.

A sandbox participant must maintain comprehensive records relating to the innovative financial product or service and must keep these records for at least five years after the conclusion of the sandbox period. The Financial Services Commission may specify by rule additional records requirements. The OFR may examine these records at any time, with or without notice.

A sandbox participant may apply for an extension of the initial sandbox period for up to 12 additional months. An application for an extension must cite one of the following reasons as the basis for the application and must provide all relevant supporting information that:

- Amendments to general law or rules are necessary to offer the innovative financial product or service in this state permanently.
- An application for a license that is required in order to offer the innovative financial product or service in this state permanently has been filed with the OFR, and approval is pending.

A complete application for an extension must be filed at least 90 days before the conclusion of the initial sandbox period. The OFR must approve or deny the application for extension in writing at least 35 days before the conclusion of the initial sandbox period. In deciding to approve or deny an application for extension of the sandbox period, the OFR must, at a minimum, consider the current status of the factors previously considered at the time of application for the initial sandbox period.

At least 30 days before the conclusion of the initial sandbox period or the extension, whichever is later, the sandbox participant must provide written notification to consumers regarding the conclusion of the initial sandbox period or the extension and may not make the financial product or service available to any new consumers after the conclusion of the initial sandbox period or the extension, whichever is later, until legal authority outside of the Financial Technology Sandbox exists to make the financial product or service available to consumers. After the conclusion of the sandbox period or the extension, whichever is later, the person may:

- Collect and receive money owed to the person or pay money owed by the person, based on agreements with consumers made before the conclusion of the sandbox period or the extension.
- Take necessary legal action.
- Take other actions authorized by commission rule which are not inconsistent with the sandbox.

A sandbox participant must submit a report to the OFR twice a year as prescribed by rule. The report must, at a minimum, include financial reports and the number of consumers who have received the financial product or service.

A sandbox participant is not immune from civil damages and is subject to all criminal and consumer protection laws.

The OFR may, by order, revoke or suspend authorization granted to a sandbox participant if:

- The sandbox participant has violated or refused to comply with the sandbox statute, a rule of the Financial Services Commission, an order of the OFR, or a condition placed by the OFR on the approval of the person's Financial Technology Sandbox application;
- A fact or condition exists that, if it had existed or become known at the time that the Financial Technology Sandbox application was pending, would have warranted denial of the application or the imposition of material conditions;
- A material error, false statement, misrepresentation, or material omission was made in the Financial Technology Sandbox application; or
- After consultation with the person, continued testing of the innovative financial product or service would:
  - Be likely to harm consumers; or
  - No longer serve the purposes of the sandbox because of the financial or operational failure of the financial product or service.

Written notice of a revocation or suspension order must be served using any means authorized by law. If the notice relates to a suspension, the notice must include any condition or remedial action that the person must complete before the OFR lifts the suspension. The OFR may refer any suspected violation of law to an appropriate state or federal agency for investigation, prosecution, civil penalties, and other appropriate enforcement actions. If service of process on a sandbox participant is not feasible, service on the OFR is deemed service on such person.

The Financial Services Commission must adopt rules to administer the sandbox. The OFR may issue all necessary orders to enforce the sandbox statute and may enforce these orders in accordance with ch. 120, F.S., or in any court of competent jurisdiction. These orders include, but are not limited to, orders for payment of restitution for harm suffered by consumers as a result of an innovative financial product or service.

The bill will take effect on January 1, 2021.

#### B. SECTION DIRECTORY:

- Section 1.** Amends s. 20.22, F.S., relating to Department of Management Services.
- Section 2.** Amends s. 282.0051, F.S., relating to Florida Digital Service; powers, duties, and functions.
- Section 3.** Amends s. 282.00515, F.S., relating to Enterprise Architecture Advisory Council.
- Section 4.** Amends s. 282.318, F.S., relating to security of data and information technology.
- Section 5.** Amends s. 287.0591, F.S., relating to information technology.
- Section 6.** Amends s. 365.171, F.S., relating to emergency communications number E911 state plan.
- Section 7.** Amends s. 365.172, F.S., relating to emergency communications number "E911."
- Section 8.** Amends s. 365.173, F.S., relating to Communications Number E911 System Fund.
- Section 9.** Amends s. 943.0415, F.S., relating to Cybercrime Office.
- Section 10.** Creates s. 560.214, F.S., relating to Financial Technology Sandbox.
- Section 11.** Provides an effective date of January 1, 2021.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill could result in a positive fiscal impact on state government revenues as it requires certain entities which use the newly-created electronic credential functionality to pay a per-use fee or purchase a subscription in order to verify the authenticity of a digital identity. The bill specifies that the revenue generated must be collected by DMS and deposited in the working capital trust fund for distribution pursuant to legislative appropriation.

The bill could result in a negative impact on state agencies that derive revenues from data transactions such as DHSMV (driver license related data), the Department of Health (vital statistics certificates), and the Florida Department of Law Enforcement (criminal history records). In Fiscal Year 2018-19, FLHSMV received \$82.8 million related to providing public records request for driver license related data, as authorized in Florida Statutes. This includes the records and fees authorized in 322.20, F.S., and 320.05(3)(b)8., F.S. This revenue supports FLHSMV agency operations including Florida Highway Patrol.<sup>111</sup>

See also "Fiscal Comments" section below.

#### 2. Expenditures:

The bill will have a negative, significant fiscal impact on state government expenditures as it considerably expands the current duties of DMS, and its subdivisions, relating to state IT management, and places new responsibilities on that department. It is unclear what if any of the bill's requirements could be absorbed within DMS's current resources. The current Division of State Technology has no resources or staffing for application development nor for the implementation and maintenance of procured systems. The current Office of the State CIO within the DST has four staff for project oversight – a task that is considerably expanded in the bill. The bill also adds review of all planned state agency information technology procurements subject to the enterprise architecture, a significant workload that cannot be handled with the five current strategic planning coordinators within DST.

The bill may have a negative, significant fiscal impact on cabinet agencies, each of which are currently authorized in law to optionally develop its own standards for information technology infrastructure, project management, and reporting, independent from those standards established by the Division of State Technology. It is unknown as to the scope and cost of remediation that may be necessary for these agencies to adhere to new enterprise standards developed by the Florida Digital Service.

The bill may have a negative, significant fiscal impact on state agencies and the judicial branch. It is unknown as to the scope and cost of remediation that may be necessary for these entities to adhere to new enterprise architecture standards developed by the Florida Digital Service.

See also "Fiscal Comments" section below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

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<sup>111</sup> Email from Suzie Carey, Chief Financial Officer for DHSMV (Feb. 7, 2020).  
STORAGE NAME: h1391a.GOT.DOCX  
DATE: 2/10/2020

None.

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

The impact of the Financial Technology Sandbox on the private sector is indeterminate, as it is unknown how many businesses may participate, what types of products or services such businesses would offer, and how many consumers in total would be offered the products or services.

**D. FISCAL COMMENTS:**

No funding has been requested by DMS or provided in the bill for the new and expanded responsibilities identified in the bill, except for the establishment of a data catalog as requested in DMS' FY 2020-21 legislative budget request, which has been funded in both the House and Senate appropriations bills.

The bill will have a negative fiscal impact on the OFR. Under the Financial Technology Sandbox, the fees will be the same as under the existing license in part II of ch. 560, F.S., except that the renewal fee can be prorated because the Financial Technology Sandbox can only be extended for up to one year, whereas the renewed license under part II of ch. 560, F.S., is for a two-year period. Depending on the number of participants and the complexity of oversight, it is possible that the OFR may need more staff. Additionally, the OFR will need to make changes to their information technology infrastructure in order to administer the program. According to the OFR, such changes will cost an estimated \$250,115.<sup>112</sup>

### **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 bill would give FDS rulemaking authority over s. 282.0051, F.S., allowing FDS to further implement the provisions of the bill through rulemaking.

The bill requires the Financial Services Commission<sup>113</sup> to adopt rules to administer the Financial Technology Sandbox.

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

- The bill expands DMS project oversight from "information technology projects" to projects with an "information technology component", which is not defined in the bill or in current law.
- The bill requires FDS to create functionality that allows qualified entities to "access stored data", but "stored data" is not defined, and the bill does not provide authority for FDS to access, share, or monetize other agencies' data, which would be needed for FDS to procure a credential service provider and to enter into revenue sharing agreements.

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<sup>112</sup> Email from Alex Anderson, Director of Governmental Relations for the OFR, RE: PCS for HB 1391 Fiscal Impact (Feb. 3, 2020).

<sup>113</sup> The Financial Services Commission (commission) is composed of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. S. 20.121(3), F.S. The commission members are OFR's agency head for the purpose of rulemaking. S. 20.121(3)(c), F.S.

- DHSMV has already been funded in the 2019 General Appropriations Act to procure a credential service provider and plans to execute a contract by March 2020. The bill does not address this duplication of effort.
- Pursuant to s. 216.272, F.S., the purpose of the working capital trust fund is only for the purpose of providing sufficient funds for the operation of data processing centers. Revenue generated from the credential service provider, electronic credential providers, and qualified entities should be deposited into the DMS Operating Trust Fund.
- The bill does not identify what types or combinations of state data are authorized to be provided to qualified entities, nor does it identify usage criteria or for what authorized purposes qualified entities may be provided certain state data.
- There are no provisions in the bill to ensure the authorized use of state data. DHSMV and other states' departments of motor vehicles have had to revoke records access with requesting parties for misuse or abuse of data.<sup>114</sup>
- While the bill does require that agreements with electronic credential providers include clear, enforceable, and significant penalties for violations of the agreements, it is unknown what penalty mechanisms are available to FDS for violations. Additionally, this penalty language in the bill only applies to electronic credential providers and not to qualified entities.

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

On February 4, 2020, the Insurance & Banking Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute:

- Creates the Enterprise Architecture Advisory Council.
- Removes a provision that allowed FDS to use best practices instead of the procurement procedures in ch. 287, F.S.
- Requires DMS to enter into agreements with certain entities regarding digital licenses and requires that revenues resulting from the agreements be deposited into the working capital trust fund.
- Removes a provision requiring the CISO to have 10 years of experience.
- Provides additional definitions.
- Narrows the scope of the Financial Technology Sandbox to focus on money transmitters and payment instrument sellers.
- Makes other technical and conforming changes.

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

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<sup>114</sup> [https://www.vice.com/en\\_us/article/43kxzq/dmvs-selling-data-private-investigators-making-millions-of-dollars](https://www.vice.com/en_us/article/43kxzq/dmvs-selling-data-private-investigators-making-millions-of-dollars)

1                                   A bill to be entitled  
 2           An act relating to technology innovation; amending s.  
 3           20.22, F.S.; renaming the Division of State Technology  
 4           within the Department of Management Services; adding  
 5           the Florida Digital Service to the department;  
 6           amending s. 282.0051, F.S.; establishing the Florida  
 7           Digital Service within the department; providing  
 8           definitions; transferring specified powers, duties,  
 9           and functions of the department to the Florida Digital  
 10          Service and revising such powers, duties, and  
 11          functions; providing appointments and requirements of  
 12          the state chief information officer and chief data  
 13          officer of the Florida Digital Service; requiring the  
 14          Florida Digital Service to develop a comprehensive  
 15          enterprise architecture; providing requirements for  
 16          such enterprise architecture; providing duties and  
 17          authorities of the Florida Digital Service; providing  
 18          duties of the department; providing rulemaking  
 19          authority; amending s. 282.00515, F.S.; deleting  
 20          provisions relating to specified duties and powers of  
 21          the Department of Legal Affairs, the Department of  
 22          Financial Services, and the Department of Agriculture  
 23          and Consumer Services; establishing the Enterprise  
 24          Architecture Advisory Council; requiring the council  
 25          to comply with specified requirements; providing

26 membership and meeting requirements and duties of the  
 27 council; amending ss. 282.318, 287.0591, 365.171,  
 28 365.172, 365.173, and 943.0415, F.S.; conforming  
 29 provisions to changes made by the act; creating s.  
 30 560.214, F.S.; providing a short title; creating the  
 31 Financial Technology Sandbox; providing definitions;  
 32 providing certain waivers of requirements to specified  
 33 persons under certain circumstances; requiring an  
 34 application for the program for persons who want to  
 35 make innovative financial products or services  
 36 available to consumers; providing application  
 37 requirements; providing standards for application  
 38 approval or refusal; requiring the Office of Financial  
 39 Regulation to perform certain actions upon approval of  
 40 an application; providing operation of the sandbox;  
 41 providing limitations on the number of consumers of  
 42 innovative financial products or services; authorizing  
 43 the office to enter into agreement with certain  
 44 regulatory agencies for specified purposes; providing  
 45 recordkeeping requirements; providing rulemaking  
 46 authority; authorizing the office to examine specified  
 47 records; providing extension and conclusion of the  
 48 sandbox period; requiring written notification to  
 49 consumers at the end of an extension or conclusion of  
 50 the sandbox period; providing acts that persons who

51 make innovative financial products or services  
 52 available to consumers may and may not engage in at  
 53 the end of an extension or conclusion of the sandbox  
 54 period; requiring such persons to submit a report;  
 55 providing construction; providing that such persons  
 56 are not immune from civil damages and are subject to  
 57 criminal and consumer protection laws; providing  
 58 penalties; providing service of process; requiring the  
 59 Financial Services Commission to adopt rules;  
 60 authorizing the office to issue certain orders and to  
 61 enforce them under ch. 120, F.S., or in court;  
 62 authorizing the office to issue and enforce orders for  
 63 payment of restitution; providing an effective date.

64

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

66

67 Section 1. Subsection (2) of section 20.22, Florida  
 68 Statutes, is amended to read:

69 20.22 Department of Management Services.—There is created  
 70 a Department of Management Services.

71 (2) The ~~following divisions and programs within the~~  
 72 Department of Management Services shall consist of the following  
 73 ~~are established:~~

74 (a) The Facilities Program.

75 (b) The Division of Telecommunications ~~State Technology,~~

76 ~~the director of which is appointed by the secretary of the~~  
 77 ~~department and shall serve as the state chief information~~  
 78 ~~officer. The state chief information officer must be a proven,~~  
 79 ~~effective administrator who must have at least 10 years of~~  
 80 ~~executive level experience in the public or private sector,~~  
 81 ~~preferably with experience in the development of information~~  
 82 ~~technology strategic planning and the development and~~  
 83 ~~implementation of fiscal and substantive information technology~~  
 84 ~~policy and standards.~~

- 85 (c) The Workforce Program.
- 86 (d)1. The Support Program.
- 87 2. The Federal Property Assistance Program.
- 88 (e) The Administration Program.
- 89 (f) The Division of Administrative Hearings.
- 90 (g) The Division of Retirement.
- 91 (h) The Division of State Group Insurance.
- 92 (i) The Florida Digital Service.

93 Section 2. Section 282.0051, Florida Statutes, is amended  
 94 to read:

95 282.0051 Florida Digital Service ~~Department of Management~~  
 96 ~~Services~~; powers, duties, and functions.—There is established  
 97 the Florida Digital Service within the department to create  
 98 innovative solutions that securely modernize state government  
 99 and achieve value through digital transformation and  
 100 interoperability.

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

102 (a) "Credential service provider" means a provider  
 103 competitively procured by the department to supply secure  
 104 identity management and verification services based on open  
 105 standards to qualified entities.

106 (b) "Data-call" means an electronic transaction with the  
 107 credential service provider that verifies the authenticity of a  
 108 digital identity by querying enterprise data.

109 (c) "Electronic" means technology having electrical,  
 110 digital, magnetic, wireless, optical, electromagnetic, or  
 111 similar capabilities.

112 (d) "Electronic credential" means an electronic  
 113 representation of a physical driver license or identification  
 114 card that is viewable in an electronic format and is capable of  
 115 being verified and authenticated.

116 (e) "Electronic credential provider" means a qualified  
 117 entity contracted with the department to provide electronic  
 118 credentials to eligible driver license or identification card  
 119 holders.

120 (f) "Enterprise" means the collection of state agencies as  
 121 defined in s. 282.0041, except that the term includes the  
 122 Department of Legal Affairs, the Department of Agriculture and  
 123 Consumer Services, the Department of Financial Services, and the  
 124 judicial branch.

125 (g) "Enterprise architecture" means a comprehensive

126 operational framework that contemplates the needs and assets of  
 127 the enterprise to support interoperability across state  
 128 government.

129 (h) "Interoperability" means the technical ability to  
 130 share and use data across and throughout the enterprise.

131 (i) "Qualified entity" means a public or private entity or  
 132 individual that enters into a binding agreement with the  
 133 department, meets usage criteria, agrees to terms and  
 134 conditions, and is subsequently and prescriptively authorized by  
 135 the department to access data under the terms of that agreement.

136 (2) The Florida Digital Service ~~department~~ shall have the  
 137 following powers, duties, and functions in full support of the  
 138 cloud-first policy as specified in s. 282.206:

139 (a)~~(1)~~ Develop and publish information technology policy  
 140 for the management of the state's information technology  
 141 resources.

142 (b)~~(2)~~ Establish and publish information technology  
 143 architecture standards to provide for the most efficient use of  
 144 ~~the state's~~ information technology resources and to ensure  
 145 compatibility and alignment with the needs of state agencies.  
 146 The Florida Digital Service ~~department~~ shall assist state  
 147 agencies in complying with the standards.

148 (c)~~(3)~~ Establish project management and oversight  
 149 standards with which state agencies must comply when  
 150 implementing projects that have an information technology

151 component projects. The Florida Digital Service department shall  
 152 provide training opportunities to state agencies to assist in  
 153 the adoption of the project management and oversight standards.  
 154 To support data-driven decisionmaking, the standards must  
 155 include, but are not limited to:

156 1.(a) Performance measurements and metrics that  
 157 objectively reflect the status of a project with an information  
 158 technology component project based on a defined and documented  
 159 project scope, cost, and schedule.

160 2.(b) Methodologies for calculating acceptable variances  
 161 in the projected versus actual scope, schedule, or cost of a  
 162 project with an information technology component project.

163 3.(c) Reporting requirements, including requirements  
 164 designed to alert all defined stakeholders that a project with  
 165 an information technology component project has exceeded  
 166 acceptable variances defined and documented in a project plan.

167 4.(d) Content, format, and frequency of project updates.

168 (d)(4) Perform project oversight on all state agency  
 169 ~~information technology~~ projects that have an information  
 170 technology component with a total project cost costs of \$10  
 171 million or more and that are funded in the General  
 172 Appropriations Act or any other law. The Florida Digital Service  
 173 ~~department~~ shall report at least quarterly to the Executive  
 174 Office of the Governor, the President of the Senate, and the  
 175 Speaker of the House of Representatives on any project with an

176 information technology component ~~project~~ that the Florida  
 177 Digital Service ~~department~~ identifies as high-risk due to the  
 178 project exceeding acceptable variance ranges defined and  
 179 documented in a project plan. The report must include a risk  
 180 assessment, including fiscal risks, associated with proceeding  
 181 to the next stage of the project, and a recommendation for  
 182 corrective actions required, including suspension or termination  
 183 of the project.

184 (e) ~~(5)~~ Identify opportunities for standardization and  
 185 consolidation of information technology services that support  
 186 interoperability and the cloud-first policy as specified in s.  
 187 282.206, business functions and operations, including  
 188 administrative functions such as purchasing, accounting and  
 189 reporting, cash management, and personnel, and that are common  
 190 across state agencies. The Florida Digital Service ~~department~~  
 191 shall biennially on April 1 provide recommendations for  
 192 standardization and consolidation to the Executive Office of the  
 193 Governor, the President of the Senate, and the Speaker of the  
 194 House of Representatives.

195 (f) ~~(6)~~ Establish best practices for the procurement of  
 196 information technology products and cloud-computing services in  
 197 order to reduce costs, increase the quality of data center  
 198 services, or improve government services.

199 (g) ~~(7)~~ Develop standards for information technology  
 200 reports and updates, including, but not limited to, operational

201 work plans, project spend plans, and project status reports, for  
 202 use by state agencies.

203 (h)~~(8)~~ Upon request, assist state agencies in the  
 204 development of information technology-related legislative budget  
 205 requests.

206 (i)~~(9)~~ Conduct annual assessments of state agencies to  
 207 determine compliance with all information technology standards  
 208 and guidelines developed and published by the Florida Digital  
 209 Service ~~department~~ and provide results of the assessments to the  
 210 Executive Office of the Governor, the President of the Senate,  
 211 and the Speaker of the House of Representatives.

212 (j)~~(10)~~ Provide operational management and oversight of  
 213 the state data center established pursuant to s. 282.201, which  
 214 includes:

215 1.~~(a)~~ Implementing industry standards and best practices  
 216 for the state data center's facilities, operations, maintenance,  
 217 planning, and management processes.

218 2.~~(b)~~ Developing and implementing cost-recovery or other  
 219 payment mechanisms that recover the full direct and indirect  
 220 cost of services through charges to applicable customer  
 221 entities. Such cost-recovery or other payment mechanisms must  
 222 comply with applicable state and federal regulations concerning  
 223 distribution and use of funds and must ensure that, for any  
 224 fiscal year, no service or customer entity subsidizes another  
 225 service or customer entity.

226           ~~3.(e)~~ Developing and implementing appropriate operating  
227 guidelines and procedures necessary for the state data center to  
228 perform its duties pursuant to s. 282.201. The guidelines and  
229 procedures must comply with applicable state and federal laws,  
230 regulations, and policies and conform to generally accepted  
231 governmental accounting and auditing standards. The guidelines  
232 and procedures must include, but need not be limited to:

233           a.1. Implementing a consolidated administrative support  
234 structure responsible for providing financial management,  
235 procurement, transactions involving real or personal property,  
236 human resources, and operational support.

237           b.2. Implementing an annual reconciliation process to  
238 ensure that each customer entity is paying for the full direct  
239 and indirect cost of each service as determined by the customer  
240 entity's use of each service.

241           c.3. Providing rebates that may be credited against future  
242 billings to customer entities when revenues exceed costs.

243           d.4. Requiring customer entities to validate that  
244 sufficient funds exist in the appropriate data processing  
245 appropriation category or will be transferred into the  
246 appropriate data processing appropriation category before  
247 implementation of a customer entity's request for a change in  
248 the type or level of service provided, if such change results in  
249 a net increase to the customer entity's cost for that fiscal  
250 year.

251 e.5. By November 15 of each year, providing to the Office  
 252 of Policy and Budget in the Executive Office of the Governor and  
 253 to the chairs of the legislative appropriations committees the  
 254 projected costs of providing data center services for the  
 255 following fiscal year.

256 f.6. Providing a plan for consideration by the Legislative  
 257 Budget Commission if the cost of a service is increased for a  
 258 reason other than a customer entity's request made pursuant to  
 259 sub-subparagraph d. ~~subparagraph 4.~~ Such a plan is required only  
 260 if the service cost increase results in a net increase to a  
 261 customer entity for that fiscal year.

262 g.7. Standardizing and consolidating procurement and  
 263 contracting practices.

264 4.(d) In collaboration with the Department of Law  
 265 Enforcement, developing and implementing a process for  
 266 detecting, reporting, and responding to information technology  
 267 security incidents, breaches, and threats.

268 5.(e) Adopting rules relating to the operation of the  
 269 state data center, including, but not limited to, budgeting and  
 270 accounting procedures, cost-recovery or other payment  
 271 methodologies, and operating procedures.

272 ~~(f) Conducting an annual market analysis to determine~~  
 273 ~~whether the state's approach to the provision of data center~~  
 274 ~~services is the most effective and cost-efficient manner by~~  
 275 ~~which its customer entities can acquire such services, based on~~

276 ~~federal, state, and local government trends, best practices in~~  
 277 ~~service provision, and the acquisition of new and emerging~~  
 278 ~~technologies. The results of the market analysis shall assist~~  
 279 ~~the state data center in making adjustments to its data center~~  
 280 ~~service offerings.~~

281 (k)~~(11)~~ Recommend other information technology services  
 282 that should be designed, delivered, and managed as enterprise  
 283 information technology services. Recommendations must include  
 284 the identification of existing information technology resources  
 285 associated with the services, if existing services must be  
 286 transferred as a result of being delivered and managed as  
 287 enterprise information technology services.

288 (l)~~(12)~~ In consultation with state agencies, propose a  
 289 methodology and approach for identifying and collecting both  
 290 current and planned information technology expenditure data at  
 291 the state agency level.

292 (m) 1.~~(13)~~~~(a)~~ Notwithstanding any other law, provide  
 293 project oversight on any project with an information technology  
 294 component ~~project~~ of the Department of Financial Services, the  
 295 Department of Legal Affairs, and the Department of Agriculture  
 296 and Consumer Services which has a total project cost of \$25  
 297 million or more and which impacts one or more other agencies.  
 298 Such projects with an information technology component ~~projects~~  
 299 must also comply with the applicable information technology  
 300 architecture, project management and oversight, and reporting

301 standards established by the Florida Digital Service ~~department~~.

302 2. ~~(b)~~ When performing the project oversight function  
 303 specified in subparagraph 1. ~~paragraph (a)~~, report at least  
 304 quarterly to the Executive Office of the Governor, the President  
 305 of the Senate, and the Speaker of the House of Representatives  
 306 on any project with an information technology component ~~project~~  
 307 that the Florida Digital Service ~~department~~ identifies as high-  
 308 risk due to the project exceeding acceptable variance ranges  
 309 defined and documented in the project plan. The report shall  
 310 include a risk assessment, including fiscal risks, associated  
 311 with proceeding to the next stage of the project and a  
 312 recommendation for corrective actions required, including  
 313 suspension or termination of the project.

314 (n) ~~(14)~~ If a project with an information technology  
 315 component ~~project~~ implemented by a state agency must be  
 316 connected to or otherwise accommodated by an information  
 317 technology system administered by the Department of Financial  
 318 Services, the Department of Legal Affairs, or the Department of  
 319 Agriculture and Consumer Services, consult with these  
 320 departments regarding the risks and other effects of such  
 321 projects on their information technology systems and work  
 322 cooperatively with these departments regarding the connections,  
 323 interfaces, timing, or accommodations required to implement such  
 324 projects.

325 (o) ~~(15)~~ If adherence to standards or policies adopted by

326 or established pursuant to this section causes conflict with  
 327 federal regulations or requirements imposed on a state agency  
 328 and results in adverse action against the state agency or  
 329 federal funding, work with the state agency to provide  
 330 alternative standards, policies, or requirements that do not  
 331 conflict with the federal regulation or requirement. The Florida  
 332 Digital Service ~~department~~ shall annually report such  
 333 alternative standards to the Governor, the President of the  
 334 Senate, and the Speaker of the House of Representatives.

335 (p)1. ~~(16) (a)~~ Establish an information technology policy  
 336 for all information technology-related state contracts,  
 337 including state term contracts for information technology  
 338 commodities, consultant services, and staff augmentation  
 339 services. The information technology policy must include:

340 a.1. Identification of the information technology product  
 341 and service categories to be included in state term contracts.

342 b.2. Requirements to be included in solicitations for  
 343 state term contracts.

344 c.3. Evaluation criteria for the award of information  
 345 technology-related state term contracts.

346 d.4. The term of each information technology-related state  
 347 term contract.

348 e.5. The maximum number of vendors authorized on each  
 349 state term contract.

350 2. ~~(b)~~ Evaluate vendor responses for information

351 technology-related state term contract solicitations and  
 352 invitations to negotiate.

353 ~~3.(e)~~ Answer vendor questions on information technology-  
 354 related state term contract solicitations.

355 ~~4.(d)~~ Ensure that the information technology policy  
 356 established pursuant to subparagraph 1. ~~paragraph (a)~~ is  
 357 included in all solicitations and contracts that are  
 358 administratively executed by the department.

359 ~~(q)(17)~~ Recommend potential methods for standardizing data  
 360 across state agencies which will promote interoperability and  
 361 reduce the collection of duplicative data.

362 ~~(r)(18)~~ Recommend open data technical standards and  
 363 terminologies for use by state agencies.

364 (3) (a) The Secretary of Management Services shall appoint  
 365 a state chief information officer, who shall administer the  
 366 Florida Digital Service and is included in the Senior Management  
 367 Service. The state chief information officer must be a proven,  
 368 effective administrator who must have at least 10 years of  
 369 executive-level experience in the public or private sector,  
 370 preferably with experience in the development of information  
 371 technology strategic planning and the development and  
 372 implementation of fiscal and substantive information technology  
 373 policy and standards.

374 (b) The state chief information officer shall appoint a  
 375 chief data officer, who shall report to the state chief

376 information officer and is included in the Senior Management  
 377 Service. The chief data officer must be a proven executive who  
 378 must have at least 10 years of executive-level experience,  
 379 preferably with experience in data management, interoperability,  
 380 and information technology security.

381 (4) The Florida Digital Service shall develop a  
 382 comprehensive enterprise architecture that:

383 (a) Recognizes the unique needs of those included within  
 384 the enterprise and results in the publication of standards,  
 385 terminologies, and procurement guidelines to facilitate digital  
 386 interoperability.

387 (b) Supports the cloud-first policy as specified in s.  
 388 282.206.

389 (c) Addresses how information technology infrastructure  
 390 may be modernized to achieve current and future cloud-first  
 391 objectives.

392 (5) The Florida Digital Service shall:

393 (a) Create and maintain a comprehensive indexed data  
 394 catalog that lists what data elements are housed within the  
 395 enterprise and in which legacy system or application these data  
 396 elements are located.

397 (b) Develop and publish, in collaboration with the  
 398 enterprise, a data dictionary for each agency that reflects the  
 399 nomenclature in the comprehensive indexed data catalog.

400 (c) Review and document use cases across the enterprise

401 architecture.

402 (d) Develop solutions for authorized or mandated use cases  
 403 in collaboration with the enterprise.

404 (e) Develop, publish, and manage an application  
 405 programming interface to facilitate integration throughout the  
 406 enterprise.

407 (f) Facilitate collaborative analysis of enterprise  
 408 architecture data to improve service delivery.

409 (g) Provide a testing environment in which any newly  
 410 developed solution can be tested for compliance within the  
 411 enterprise architecture and for functionality assurance before  
 412 deployment.

413 (h) Create the functionality necessary for a secure  
 414 ecosystem of data interoperability that is compliant with the  
 415 enterprise architecture and allows for a qualified entity to  
 416 access the stored data under the terms of the agreement with the  
 417 department.

418 (i)1. Procure a credential service provider through a  
 419 competitive process pursuant to s. 287.057. The terms of the  
 420 contract developed from such procurement shall pay for the value  
 421 on a per-data-call or subscription basis, and there shall be no  
 422 cost to the department or law enforcement for using the services  
 423 provided by the credential service provider.

424 a. The department shall enter into agreements with  
 425 electronic credential providers that have the technological

426 capabilities necessary to integrate with the credential service  
 427 provider; ensure secure validation and authentication of data;  
 428 meet usage criteria; agree to terms and conditions, privacy  
 429 policies, and uniform remittance terms relating to the  
 430 consumption of an electronic credential; and include clear,  
 431 enforceable, and significant penalties for violations of the  
 432 agreements.

433 b. Revenue generated shall be collected by the department  
 434 and deposited into the working capital trust fund for  
 435 distribution pursuant to a legislative appropriation and  
 436 department agreements with the credential service provider, the  
 437 electronic credential providers, and the qualified entities. The  
 438 terms of the agreements between the department and the  
 439 credential service provider, the electronic credential  
 440 providers, and the qualified entities, shall be based on the  
 441 per-data-call or subscription charges to validate and  
 442 authenticate an electronic credential and allow the department  
 443 to recover any state costs for implementing and administering an  
 444 electronic credential solution. Provider revenues may not be  
 445 derived from any other transactions that generate revenue for  
 446 the department outside of the per-data-call or subscription  
 447 charges. Nothing herein shall be construed as a restriction on a  
 448 provider's ability to generate additional revenues from third  
 449 parties outside of the terms of the agreement.

450 2. Upon the signing of the enterprise architecture terms

451 of service and privacy policies, provide to qualified entities  
 452 and electronic credential providers appropriate access to the  
 453 stored data to facilitate authorized integrations to  
 454 collaboratively and less expensively or at no taxpayer cost,  
 455 solve enterprise use cases.

456 (j) Architect and deploy applications or solutions to  
 457 existing enterprise obligations in a controlled and phased  
 458 approach, including, but not limited to:

459 1. Digital licenses, including full identification  
 460 management.

461 2. Interoperability that enables supervisors of elections  
 462 to authenticate voter eligibility in real time at the point of  
 463 service.

464 3. The criminal justice database.

465 4. Motor vehicle insurance cancellation integration  
 466 between insurers and the Department of Highway Safety and Motor  
 467 Vehicles.

468 5. Interoperability solutions between agencies, including,  
 469 but not limited to, the Department of Health, the Agency for  
 470 Health Care Administration, the Agency for Persons with  
 471 Disabilities, the Department of Education, the Department of  
 472 Elderly Affairs, and the Department of Children and Families.

473 (6) The Florida Digital Service may develop a process to:

474 (a) Receive written notice from the state agencies within  
 475 the enterprise of any planned or existing procurement of an

476 information technology project which is subject to governance by  
 477 the enterprise architecture.

478 (b) Intervene in any planned procurement so that it  
 479 complies with the enterprise architecture.

480 ~~(7)(19)~~ The Florida Digital Service may adopt rules to  
 481 administer this section.

482 Section 3. Section 282.00515, Florida Statutes, is amended  
 483 to read:

484 282.00515 Enterprise Architecture Advisory Council Duties  
 485 ~~of Cabinet Agencies. The Department of Legal Affairs, the~~  
 486 ~~Department of Financial Services, and the Department of~~  
 487 ~~Agriculture and Consumer Services shall adopt the standards~~  
 488 ~~established in s. 282.0051(2), (3), and (7) or adopt alternative~~  
 489 ~~standards based on best practices and industry standards, and~~  
 490 ~~may contract with the department to provide or perform any of~~  
 491 ~~the services and functions described in s. 282.0051 for the~~  
 492 ~~Department of Legal Affairs, the Department of Financial~~  
 493 ~~Services, or the Department of Agriculture and Consumer~~  
 494 ~~Services.~~

495 (1) (a) The Enterprise Architecture Advisory Council, an  
 496 advisory council as defined in s. 20.03(7), is established  
 497 within the Department of Management Services. The council shall  
 498 comply with the requirements of s. 20.052, except as otherwise  
 499 provided in this section.

500 (b) The council shall consist of:

- 501        1. The Governor or his or her designee.
- 502        2. Three additional designees of the Governor.
- 503        3. The director of the Office of Policy and Budget in the  
 504 Executive Office of the Governor or his or her designee.
- 505        4. The Secretary of Management Services or his or her  
 506 designee.
- 507        5. The state chief information officer or his or her  
 508 designee.
- 509        6. The Chief Justice or his or her designee.
- 510        7. The President of the Senate or his or her designee.
- 511        8. The Speaker of the House of Representatives or his or  
 512 her designee.
- 513        9. The chief information officer of the Department of  
 514 Financial Services or his or her designee.
- 515        10. The chief information officer of the Department of  
 516 Legal Affairs or his or her designee.
- 517        11. The chief information officer of the Department of  
 518 Agriculture and Consumer Services or his or her designee.
- 519        (2)(a) The members appointed herein shall be appointed to  
 520 terms of 4 years. However, for the purpose of providing  
 521 staggered terms:
- 522        1. The appointments made by the Governor and the director  
 523 of the Office of Policy and Budget in the Executive Office of  
 524 the Governor are for initial 2-year terms.
- 525        2. The Secretary of Management Services and the state

526 chief information officer are appointed to initial 4-year terms.

527 3. The appointment of the Chief Justice is for an initial  
 528 3-year term.

529 4. The appointments of the President of the Senate and the  
 530 Speaker of the House of Representatives are for initial 2-year  
 531 terms.

532 5. The appointments of the chief information officers of  
 533 the Department of Financial Services, the Department of Legal  
 534 Affairs, and the Department of Agriculture and Consumer Services  
 535 are for initial 2-year terms.

536 (b) A vacancy on the council shall be filled in the same  
 537 manner as the original appointment for the unexpired term.

538 (c) The council shall meet semiannually, beginning October  
 539 1, 2020, to discuss implementation, management, and coordination  
 540 of the enterprise architecture; identify potential issues and  
 541 threats with specific use cases; and develop proactive  
 542 solutions.

543 Section 4. Paragraph (a) of subsection (3) of section  
 544 282.318, Florida Statutes, is amended to read:

545 282.318 Security of data and information technology.-

546 (3) The department is responsible for establishing  
 547 standards and processes consistent with generally accepted best  
 548 practices for information technology security, to include  
 549 cybersecurity, and adopting rules that safeguard an agency's  
 550 data, information, and information technology resources to

551 ensure availability, confidentiality, and integrity and to  
 552 mitigate risks. The department shall also:

553 (a) Designate a state chief information security officer  
 554 who shall be appointed by and report to the state chief  
 555 information officer of the Florida Digital Service and is in the  
 556 Senior Management Service. The state chief information security  
 557 officer must have experience and expertise in security and risk  
 558 management for communications and information technology  
 559 resources.

560 Section 5. Subsection (4) of section 287.0591, Florida  
 561 Statutes, is amended to read:

562 287.0591 Information technology.—

563 (4) If the department issues a competitive solicitation  
 564 for information technology commodities, consultant services, or  
 565 staff augmentation contractual services, the Florida Digital  
 566 Service ~~Division of State Technology~~ within the department shall  
 567 participate in such solicitations.

568 Section 6. Paragraph (a) of subsection (3) of section  
 569 365.171, Florida Statutes, is amended to read:

570 365.171 Emergency communications number E911 state plan.—

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

572 (a) "Office" means the Division of Telecommunications  
 573 ~~State Technology~~ within the Department of Management Services,  
 574 as designated by the secretary of the department.

575 Section 7. Paragraph (s) of subsection (3) of section

576 365.172, Florida Statutes, is amended to read:

577 365.172 Emergency communications number "E911."—

578 (3) DEFINITIONS.—Only as used in this section and ss.

579 365.171, 365.173, 365.174, and 365.177, the term:

580 (s) "Office" means the Division of Telecommunications  
 581 ~~State Technology~~ within the Department of Management Services,  
 582 as designated by the secretary of the department.

583 Section 8. Paragraph (a) of subsection (1) of section  
 584 365.173, Florida Statutes, is amended to read:

585 365.173 Communications Number E911 System Fund.—

586 (1) REVENUES.—

587 (a) Revenues derived from the fee levied on subscribers  
 588 under s. 365.172(8) must be paid by the board into the State  
 589 Treasury on or before the 15th day of each month. Such moneys  
 590 must be accounted for in a special fund to be designated as the  
 591 Emergency Communications Number E911 System Fund, a fund created  
 592 in the Division of Telecommunications ~~State Technology~~, or other  
 593 office as designated by the Secretary of Management Services.

594 Section 9. Subsection (5) of section 943.0415, Florida  
 595 Statutes, is amended to read:

596 943.0415 Cybercrime Office.—There is created within the  
 597 Department of Law Enforcement the Cybercrime Office. The office  
 598 may:

599 (5) Consult with the Florida Digital Service ~~Division of~~  
 600 ~~State Technology~~ within the Department of Management Services in

601 the adoption of rules relating to the information technology  
 602 security provisions in s. 282.318.

603 Section 10. Section 560.214, Florida Statutes, is created  
 604 to read:

605 560.214 Financial Technology Sandbox.-

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

608 (2) CREATION OF THE FINANCIAL TECHNOLOGY SANDBOX.-There is  
 609 created the Financial Technology Sandbox within the office to  
 610 allow financial technology innovators to test new products and  
 611 services in a supervised, flexible regulatory sandbox, using  
 612 waivers of specified general law and corresponding rule  
 613 requirements under defined conditions. The creation of a  
 614 supervised, flexible regulatory sandbox provides a welcoming  
 615 business environment for technology innovators and may lead to  
 616 significant business growth.

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

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

623 (b) "Financial product or service" means a product or  
 624 service related to money transmitters and payment instrument  
 625 sellers, as defined in s. 560.103, including mediums of exchange

626 that are in electronic or digital form, which is subject to  
 627 general law or corresponding rule requirements in the sections  
 628 enumerated in paragraph (4)(a) and which is under the  
 629 jurisdiction of the office.

630 (c) "Financial Technology Sandbox" means the program  
 631 created in this section which allows a person to make an  
 632 innovative financial product or service available to consumers  
 633 as a money transmitter or payment instrument seller, as defined  
 634 in s. 560.103, during a sandbox period through a waiver of  
 635 general laws or rule requirements, or portions thereof, as  
 636 specified in this section.

637 (d) "Innovative" means new or emerging technology, or new  
 638 uses of existing technology, which provides a product, service,  
 639 business model, or delivery mechanism to the public.

640 (e) "Office" means, unless the context clearly indicates  
 641 otherwise, the Office of Financial Regulation.

642 (f) "Sandbox period" means the period, initially not  
 643 longer than 24 months, in which the office has:

644 1. Authorized an innovative financial product or service  
 645 to be made available to consumers.

646 2. Granted the person who makes the innovative financial  
 647 product or service available a waiver of general law or  
 648 corresponding rule requirements, as determined by the office, so  
 649 that the authorization under subparagraph 1. is possible.

650 (4) WAIVERS OF GENERAL LAW AND RULE REQUIREMENTS.-

651           (a) If all the conditions in this section are met, the  
 652 office may approve the application and grant the applicant a  
 653 waiver of a requirement, or a portion thereof, which is imposed  
 654 by a general law or corresponding rule in any of the following  
 655 sections:

- 656           1. Section 560.1105.
- 657           2. Section 560.118.
- 658           3. Section 560.125, except for s. 560.125(2).
- 659           4. Section 560.128.
- 660           5. Section 560.1401, except for s. 560.1401(2)-(4).
- 661           6. Section 560.141, except for s. 560.141(1)(b)-(d).
- 662           7. Section 560.142, except that the office may prorate,  
 663 but may not entirely waive, the license renewal fees provided in  
 664 ss. 560.142 and 560.143 for an extension granted under  
 665 subsection (7).
- 666           8. Section 560.143(2) to the extent necessary for  
 667 proration of the renewal fee under subparagraph 7.
- 668           9. Section 560.205, except for s. 560.205(1) and (3).
- 669           10. Section 560.208, except for s. 560.208(3)-(6).
- 670           11. Section 560.209, except that the office may modify,  
 671 but may not entirely waive, the net worth, corporate surety  
 672 bond, and collateral deposit amounts required under s. 560.209.  
 673 The modified amounts must be in such lower amounts that the  
 674 office determines to be commensurate with the considerations  
 675 under paragraph (5)(e) and the maximum number of consumers

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

676 authorized to receive the financial product or service under  
 677 this section.

678 (b) The office may grant, during a sandbox period, a  
 679 waiver of a requirement, or a portion thereof, imposed by a  
 680 general law or corresponding rule in any section enumerated in  
 681 paragraph (a), if all of the following conditions are met:

682 1. The general law or corresponding rule currently  
 683 prevents the innovative financial product or service to be made  
 684 available to consumers.

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

688 3. No provision relating to the liability of an  
 689 incorporator, director, or officer of the applicant is eligible  
 690 for a waiver.

691 4. The other requirements of this section are met.

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

694 (a) Before filing an application under this section, a  
 695 substantially affected person may seek a declaratory statement  
 696 pursuant to s. 120.565 regarding the applicability of a statute,  
 697 rule, or agency order to the petitioner's particular set of  
 698 circumstances.

699 (b) Before making an innovative financial product or  
 700 service available to consumers in the Financial Technology

701 Sandbox, a person must file an application with the office. The  
 702 commission shall, by rule, prescribe the form and manner of the  
 703 application.

704 1. In the application, the person must specify the general  
 705 law or rule requirements for which a waiver is sought, and the  
 706 reasons why these requirements prevent the innovative financial  
 707 product or service from being made available to consumers.

708 2. The application must also contain the information  
 709 specified in paragraph (e).

710 (c) A business entity filing an application under this  
 711 section must be a domestic corporation or other organized  
 712 domestic entity with a physical presence, other than that of a  
 713 registered office or agent or virtual mailbox, in this state.

714 (d) Before a person applies on behalf of a business entity  
 715 intending to make an innovative financial product or service  
 716 available to consumers, the person must obtain the consent of  
 717 the business entity.

718 (e) The office shall approve or deny in writing a  
 719 Financial Technology Sandbox application within 60 days after  
 720 receiving the completed application. The office and the  
 721 applicant may jointly agree to extend the time beyond 60 days.  
 722 The office may impose conditions on any approval, consistent  
 723 with this section. In deciding to approve or deny an  
 724 application, the office must consider each of the following:

725 1. The nature of the innovative financial product or

726 service proposed to be made available to consumers in the  
 727 Financial Technology Sandbox, including all relevant technical  
 728 details.

729 2. The potential risk to consumers and the methods that  
 730 will be used to protect consumers and resolve complaints during  
 731 the sandbox period.

732 3. The business plan proposed by the applicant, including  
 733 a statement regarding the applicant's current and proposed  
 734 capitalization.

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

739 5. Whether any person substantially involved in the  
 740 development, operation, or management of the applicant's  
 741 innovative financial product or service has pled no contest to,  
 742 has been convicted or found guilty of, or is currently under  
 743 investigation for, fraud, a state or federal securities  
 744 violation, a property-based offense, or a crime involving moral  
 745 turpitude or dishonest dealing. A plea of no contest, a  
 746 conviction, or a finding of guilt must be reported under this  
 747 subparagraph regardless of adjudication.

748 6. A copy of the disclosures that will be provided to  
 749 consumers under paragraph (6) (c).

750 7. The financial responsibility of any person

751 substantially involved in the development, operation, or  
 752 management of the applicant's innovative financial product or  
 753 service.

754 8. Any other factor that the office determines to be  
 755 relevant.

756 (f) The office may not approve an application if:

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

760 2. Any person substantially involved in the development,  
 761 operation, or management of the applicant's innovative financial  
 762 product or service was substantially involved in such with  
 763 another Financial Technology Sandbox applicant whose application  
 764 was approved and whose application related to a substantially  
 765 similar financial product or service.

766 (g) Upon approval of an application, the office shall  
 767 specify the general law or rule requirements, or portions  
 768 thereof, for which a waiver is granted during the sandbox period  
 769 and the length of the initial sandbox period, not to exceed 24  
 770 months. The office shall post on its website notice of the  
 771 approval of the application, a summary of the innovative  
 772 financial product or service, and the contact information of the  
 773 person making the financial product or service available.

774 (6) OPERATION OF THE FINANCIAL TECHNOLOGY SANDBOX.—

775 (a) A person whose Financial Technology Sandbox

776 application is approved may make an innovative financial product  
 777 or service available to consumers during the sandbox period.

778 (b) The office may, on a case-by-case basis, specify the  
 779 maximum number of consumers authorized to receive an innovative  
 780 financial product or service, after consultation with the person  
 781 who makes the financial product or service available to  
 782 consumers. The office may not authorize more than 15,000  
 783 consumers to receive the financial product or service until the  
 784 person who makes the financial product or service available to  
 785 consumers has filed the first report required under subsection  
 786 (8). After the filing of the report, if the person demonstrates  
 787 adequate financial capitalization, risk management process, and  
 788 management oversight, the office may authorize up to 25,000  
 789 consumers to receive the financial product or service.

790 (c)1. Before a consumer purchases, uses, receives, or  
 791 enters into an agreement to purchase, use, or receive an  
 792 innovative financial product or service through the Financial  
 793 Technology Sandbox, the person making the financial product or  
 794 service available must provide a written statement of all of the  
 795 following to the consumer:

796 a. The name and contact information of the person making  
 797 the financial product or service available to consumers.

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

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

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

806 e. That the person making the financial product or service  
 807 available to consumers is not immune from civil liability for  
 808 any losses or damages caused by the financial product or  
 809 service.

810 f. The expected end date of the sandbox period.

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

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

818 2. The written statement must contain an acknowledgement  
 819 from the consumer, which must be retained for the duration of  
 820 the sandbox period by the person making the financial product or  
 821 service available.

822 (d) The office may enter into an agreement with a state,  
 823 federal, or foreign regulatory agency to allow persons who make  
 824 an innovative financial product or service available in this  
 825 state through the Financial Technology Sandbox to make their

826 products or services available in other jurisdictions.  
 827 (e)1. A person whose Financial Technology Sandbox  
 828 application is approved by the office shall maintain  
 829 comprehensive records relating to the innovative financial  
 830 product or service. The person shall keep these records for at  
 831 least 5 years after the conclusion of the sandbox period. The  
 832 commission may specify by rule additional records requirements.

833 2. The office may examine the records maintained under  
 834 subparagraph 1. at any time, with or without notice.

835 (7) EXTENSIONS AND CONCLUSION OF SANDBOX PERIOD.—

836 (a) A person who is authorized to make an innovative  
 837 financial product or service available to consumers may apply  
 838 for an extension of the initial sandbox period for up to 12  
 839 additional months for a purpose specified in subparagraph (b)1.  
 840 or subparagraph (b)2. A complete application for an extension  
 841 must be filed with the office at least 90 days before the  
 842 conclusion of the initial sandbox period. The office shall  
 843 approve or deny the application for extension in writing at  
 844 least 35 days before the conclusion of the initial sandbox  
 845 period. In deciding to approve or deny an application for  
 846 extension of the sandbox period, the office must, at a minimum,  
 847 consider the current status of the factors previously considered  
 848 under paragraph (5)(e).

849 (b) An application for an extension under paragraph (a)  
 850 must cite one of the following reasons as the basis for the

851 application and must provide all relevant supporting information  
 852 that:

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

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

860 (c) At least 30 days before the conclusion of the initial  
 861 sandbox period or the extension, whichever is later, a person  
 862 who makes an innovative financial product or service available  
 863 shall provide written notification to consumers regarding the  
 864 conclusion of the initial sandbox period or the extension and  
 865 may not make the financial product or service available to any  
 866 new consumers after the conclusion of the initial sandbox period  
 867 or the extension, whichever is later, until legal authority  
 868 outside of the Financial Technology Sandbox exists to make the  
 869 financial product or service available to consumers. After the  
 870 conclusion of the sandbox period or the extension, whichever is  
 871 later, the person may:

872 1. Collect and receive money owed to the person or pay  
 873 money owed by the person, based on agreements with consumers  
 874 made before the conclusion of the sandbox period or the  
 875 extension.

876       2. Take necessary legal action.

877       3. Take other actions authorized by commission rule which  
 878 are not inconsistent with this subsection.

879       (8) REPORT.—A person authorized to make an innovative  
 880 financial product or service available to consumers under this  
 881 section shall submit a report to the office twice a year as  
 882 prescribed by commission rule. The report must, at a minimum,  
 883 include financial reports and the number of consumers who have  
 884 received the financial product or service.

885       (9) CONSTRUCTION.—A person whose Financial Technology  
 886 Sandbox application is approved shall be deemed licensed under  
 887 part II of this chapter unless the person's authorization to  
 888 make the financial product or service available to consumers  
 889 under this section has been revoked or suspended.

890       (10) VIOLATIONS AND PENALTIES.—

891       (a) A person who makes an innovative financial product or  
 892 service available to consumers in the Financial Technology  
 893 Sandbox is:

894           1. Not immune from civil damages for acts and omissions  
 895 relating to this section.

896           2. Subject to all criminal and consumer protection laws.

897       (b)1. The office may, by order, revoke or suspend  
 898 authorization granted to a person to make an innovative  
 899 financial product or service available to consumers if:

900           a. The person has violated or refused to comply with this

901 section, a rule of the commission, an order of the office, or a  
 902 condition placed by the office on the approval of the person's  
 903 Financial Technology Sandbox application;

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

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

911 d. After consultation with the person, continued testing  
 912 of the innovative financial product or service would:

913 (I) Be likely to harm consumers; or

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

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

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

926        (d) If service of process on a person making an innovative  
 927 financial product or service available to consumers in the  
 928 Financial Technology Sandbox is not feasible, service on the  
 929 office shall be deemed service on such person.

930        (11) RULES AND ORDERS.—

931        (a) The commission shall adopt rules to administer this  
 932 section.

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

939        Section 11. This act shall take effect January 1, 2021.



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17 ~~department and shall serve as the state chief information~~  
18 ~~officer. The state chief information officer must be a proven,~~  
19 ~~effective administrator who must have at least 10 years of~~  
20 ~~executive level experience in the public or private sector,~~  
21 ~~preferably with experience in the development of information~~  
22 ~~technology strategic planning and the development and~~  
23 ~~implementation of fiscal and substantive information technology~~  
24 ~~policy and standards.~~

25 (c) The Workforce Program.

26 (d)1. The Support Program.

27 2. The Federal Property Assistance Program.

28 (e) The Administration Program.

29 (f) The Division of Administrative Hearings.

30 (g) The Division of Retirement.

31 (h) The Division of State Group Insurance.

32 (i) The Florida Digital Service.

33 Section 2. Section 282.0041, Florida Statutes, is amended  
34 to read:

35 282.0041 Definitions.—As used in this chapter, the term:

36 (1) "Agency assessment" means the amount each customer  
37 entity must pay annually for services from the Department of  
38 Management Services and includes administrative and data center  
39 services costs.

40 (2) "Agency data center" means agency space containing 10  
41 or more physical or logical servers.

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42 (3) "Breach" has the same meaning as provided in s.  
43 501.171.

44 (4) "Business continuity plan" means a collection of  
45 procedures and information designed to keep an agency's critical  
46 operations running during a period of displacement or  
47 interruption of normal operations.

48 (5) "Cloud computing" has the same meaning as provided in  
49 Special Publication 800-145 issued by the National Institute of  
50 Standards and Technology.

51 (6) "Computing facility" or "agency computing facility"  
52 means agency space containing fewer than a total of 10 physical  
53 or logical servers, but excluding single, logical-server  
54 installations that exclusively perform a utility function such  
55 as file and print servers.

56 (7) "Credential service provider" means a provider  
57 competitively procured by the department to supply secure  
58 identity management and verification services based on open  
59 standards to qualified entities.

60 (8) (7) "Customer entity" means an entity that obtains  
61 services from the Department of Management Services.

62 (9) (8) "Data" means a subset of structured information in  
63 a format that allows such information to be electronically  
64 retrieved and transmitted.

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65 (10) "Data-call" means an electronic transaction with the  
66 credential service provider that verifies the authenticity of a  
67 digital identity by querying enterprise data.

68 (11)~~(9)~~ "Department" means the Department of Management  
69 Services.

70 (12)~~(10)~~ "Disaster recovery" means the process, policies,  
71 procedures, and infrastructure related to preparing for and  
72 implementing recovery or continuation of an agency's vital  
73 technology infrastructure after a natural or human-induced  
74 disaster.

75 (13) "Electronic" means technology having electrical,  
76 digital, magnetic, wireless, optical, electromagnetic, or  
77 similar capabilities.

78 (14) "Electronic credential" means an electronic  
79 representation of a physical driver license or identification  
80 card that is viewable in an electronic format and is capable of  
81 being verified and authenticated.

82 (15) "Electronic credential provider" means a qualified  
83 entity contracted with the department to provide electronic  
84 credentials to eligible driver license or identification card  
85 holders.

86 (16) "Enterprise" means the collection of state agencies.  
87 The term includes the Department of Legal Affairs, the  
88 Department of Agriculture and Consumer Services, the Department  
89 of Financial Services, and the judicial branch.

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90           (17) "Enterprise architecture" means a comprehensive  
91 operational framework that contemplates the needs and assets of  
92 the enterprise to support interoperability across state  
93 government.

94           ~~(18)-(11)~~ "Enterprise information technology service" means  
95 an information technology service that is used in all agencies  
96 or a subset of agencies and is established in law to be  
97 designed, delivered, and managed at the enterprise level.

98           ~~(19)-(12)~~ "Event" means an observable occurrence in a  
99 system or network.

100           ~~(20)-(13)~~ "Incident" means a violation or imminent threat  
101 of violation, whether such violation is accidental or  
102 deliberate, of information technology resources, security,  
103 policies, or practices. An imminent threat of violation refers  
104 to a situation in which the state agency has a factual basis for  
105 believing that a specific incident is about to occur.

106           ~~(21)-(14)~~ "Information technology" means equipment,  
107 hardware, software, firmware, programs, systems, networks,  
108 infrastructure, media, and related material used to  
109 automatically, electronically, and wirelessly collect, receive,  
110 access, transmit, display, store, record, retrieve, analyze,  
111 evaluate, process, classify, manipulate, manage, assimilate,  
112 control, communicate, exchange, convert, converge, interface,  
113 switch, or disseminate information of any kind or form.

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114        (22)~~(15)~~ "Information technology policy" means a definite  
115 course or method of action selected from among one or more  
116 alternatives that guide and determine present and future  
117 decisions.

118        (23)~~(16)~~ "Information technology resources" has the same  
119 meaning as provided in s. 119.011.

120        (24)~~(17)~~ "Information technology security" means the  
121 protection afforded to an automated information system in order  
122 to attain the applicable objectives of preserving the integrity,  
123 availability, and confidentiality of data, information, and  
124 information technology resources.

125        (25) "Interoperability" means the technical ability to  
126 share and use data across and throughout the enterprise.

127        (26)~~(18)~~ "Open data" means data collected or created by a  
128 state agency and structured in a way that enables the data to be  
129 fully discoverable and usable by the public. The term does not  
130 include data that are restricted from public distribution based  
131 on federal or state privacy, confidentiality, and security laws  
132 and regulations or data for which a state agency is statutorily  
133 authorized to assess a fee for its distribution.

134        (27)~~(19)~~ "Performance metrics" means the measures of an  
135 organization's activities and performance.

136        (28)~~(20)~~ "Project" means an endeavor that has a defined  
137 start and end point; is undertaken to create or modify a unique

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138 product, service, or result; and has specific objectives that,  
139 when attained, signify completion.

140 ~~(29)-(21)~~ "Project oversight" means an independent review  
141 and analysis of an information technology project that provides  
142 information on the project's scope, completion timeframes, and  
143 budget and that identifies and quantifies issues or risks  
144 affecting the successful and timely completion of the project.

145 (30) "Qualified entity" means a public or private entity  
146 or individual that enters into a binding agreement with the  
147 department, meets usage criteria, agrees to terms and  
148 conditions, and is subsequently and prescriptively authorized by  
149 the department to access data under the terms of that agreement.

150 ~~(31)-(22)~~ "Risk assessment" means the process of  
151 identifying security risks, determining their magnitude, and  
152 identifying areas needing safeguards.

153 ~~(32)-(23)~~ "Service level" means the key performance  
154 indicators (KPI) of an organization or service which must be  
155 regularly performed, monitored, and achieved.

156 ~~(33)-(24)~~ "Service-level agreement" means a written  
157 contract between the Department of Management Services and a  
158 customer entity which specifies the scope of services provided,  
159 service level, the duration of the agreement, the responsible  
160 parties, and service costs. A service-level agreement is not a  
161 rule pursuant to chapter 120.

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162        ~~(34)~~~~(25)~~ "Stakeholder" means a person, group,  
163 organization, or state agency involved in or affected by a  
164 course of action.

165        ~~(35)~~~~(26)~~ "Standards" means required practices, controls,  
166 components, or configurations established by an authority.

167        ~~(36)~~~~(27)~~ "State agency" means any official, officer,  
168 commission, board, authority, council, committee, or department  
169 of the executive branch of state government; the Justice  
170 Administrative Commission; and the Public Service Commission.  
171 The term does not include university boards of trustees or state  
172 universities. As used in part I of this chapter, except as  
173 otherwise specifically provided, the term does not include the  
174 Department of Legal Affairs, the Department of Agriculture and  
175 Consumer Services, or the Department of Financial Services.

176        ~~(37)~~~~(28)~~ "SUNCOM Network" means the state enterprise  
177 telecommunications system that provides all methods of  
178 electronic or optical telecommunications beyond a single  
179 building or contiguous building complex and used by entities  
180 authorized as network users under this part.

181        ~~(38)~~~~(29)~~ "Telecommunications" means the science and  
182 technology of communication at a distance, including electronic  
183 systems used in the transmission or reception of information.

184        ~~(39)~~~~(30)~~ "Threat" means any circumstance or event that has  
185 the potential to adversely impact a state agency's operations or  
186 assets through an information system via unauthorized access,

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187 destruction, disclosure, or modification of information or  
188 denial of service.

189 ~~(40)~~(31) "Variance" means a calculated value that  
190 illustrates how far positive or negative a projection has  
191 deviated when measured against documented estimates within a  
192 project plan.

193 Section 3. Section 282.0051, Florida Statutes, is amended  
194 to read:

195 282.0051 Florida Digital Service Department of Management  
196 Services; powers, duties, and functions. There is established  
197 the Florida Digital Service within the department to create  
198 innovative solutions that securely modernize state government,  
199 achieve value through digital transformation and  
200 interoperability, and fully support the cloud-first policy as  
201 specified in s. 282.206.

202 (1) The Florida Digital Service ~~department~~ shall have the  
203 following powers, duties, and functions:

204 ~~(a)~~(1) Develop and publish information technology policy  
205 for the management of the state's information technology  
206 resources.

207 ~~(b)~~(2) Establish and publish information technology  
208 architecture standards to provide for the most efficient use of  
209 ~~the state's~~ information technology resources and to ensure  
210 compatibility and alignment with the needs of state agencies.

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211 The Florida Digital Service ~~department~~ shall assist state  
212 agencies in complying with the standards.

213 ~~(c)(3)~~ Establish project management and oversight  
214 standards with which state agencies must comply when  
215 implementing projects that have an information technology  
216 component ~~projects~~. The Florida Digital Service ~~department~~ shall  
217 provide training opportunities to state agencies to assist in  
218 the adoption of the project management and oversight standards.  
219 To support data-driven decisionmaking, the standards must  
220 include, but are not limited to:

221 ~~1.(a)~~ Performance measurements and metrics that  
222 objectively reflect the status of a project with an information  
223 technology component ~~project~~ based on a defined and documented  
224 project scope, cost, and schedule.

225 ~~2.(b)~~ Methodologies for calculating acceptable variances  
226 in the projected versus actual scope, schedule, or cost of a  
227 project with an information technology component ~~project~~.

228 ~~3.(e)~~ Reporting requirements, including requirements  
229 designed to alert all defined stakeholders that a project with  
230 an information technology component ~~project~~ has exceeded  
231 acceptable variances defined and documented in a project plan.

232 ~~4.(d)~~ Content, format, and frequency of project updates.

233 ~~(d)(4)~~ Perform project oversight on all state agency  
234 ~~information technology~~ projects that have an information  
235 technology component with a total project cost ~~costs~~ of \$10

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236 million or more and that are funded in the General  
237 Appropriations Act or any other law. The Florida Digital Service  
238 ~~department~~ shall report at least quarterly to the Executive  
239 Office of the Governor, the President of the Senate, and the  
240 Speaker of the House of Representatives on any project with an  
241 information technology component ~~project~~ that the Florida  
242 Digital Service ~~department~~ identifies as high-risk due to the  
243 project exceeding acceptable variance ranges defined and  
244 documented in a project plan. The report must include a risk  
245 assessment, including fiscal risks, associated with proceeding  
246 to the next stage of the project, and a recommendation for  
247 corrective actions required, including suspension or termination  
248 of the project.

249 (e) (5) Identify opportunities for standardization and  
250 consolidation of information technology services that support  
251 interoperability and the cloud-first policy as specified in s.  
252 282.206, business functions and operations, including  
253 administrative functions such as purchasing, accounting and  
254 reporting, cash management, and personnel, and that are common  
255 across state agencies. The Florida Digital Service ~~department~~  
256 shall biennially on April 1 provide recommendations for  
257 standardization and consolidation to the Executive Office of the  
258 Governor, the President of the Senate, and the Speaker of the  
259 House of Representatives.

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260        ~~(f)(6)~~ Establish best practices for the procurement of  
261 information technology products and cloud-computing services in  
262 order to reduce costs, increase the quality of data center  
263 services, or improve government services.

264        ~~(g)(7)~~ Develop standards for information technology  
265 reports and updates, including, but not limited to, operational  
266 work plans, project spend plans, and project status reports, for  
267 use by state agencies.

268        ~~(h)(8)~~ Upon request, assist state agencies in the  
269 development of information technology-related legislative budget  
270 requests.

271        ~~(i)(9)~~ Conduct annual assessments of state agencies to  
272 determine compliance with all information technology standards  
273 and guidelines developed and published by the Florida Digital  
274 Service department and provide results of the assessments to the  
275 Executive Office of the Governor, the President of the Senate,  
276 and the Speaker of the House of Representatives.

277        ~~(j)(10)~~ Provide operational management and oversight of  
278 the state data center established pursuant to s. 282.201, which  
279 includes:

280            ~~1.(a)~~ Implementing industry standards and best practices  
281 for the state data center's facilities, operations, maintenance,  
282 planning, and management processes.

283            ~~2.(b)~~ Developing and implementing cost-recovery or other  
284 payment mechanisms that recover the full direct and indirect

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285 cost of services through charges to applicable customer  
286 entities. Such cost-recovery or other payment mechanisms must  
287 comply with applicable state and federal regulations concerning  
288 distribution and use of funds and must ensure that, for any  
289 fiscal year, no service or customer entity subsidizes another  
290 service or customer entity.

291 ~~3.(e)~~ Developing and implementing appropriate operating  
292 guidelines and procedures necessary for the state data center to  
293 perform its duties pursuant to s. 282.201. The guidelines and  
294 procedures must comply with applicable state and federal laws,  
295 regulations, and policies and conform to generally accepted  
296 governmental accounting and auditing standards. The guidelines  
297 and procedures must include, but need not be limited to:

298 ~~a.1-~~ Implementing a consolidated administrative support  
299 structure responsible for providing financial management,  
300 procurement, transactions involving real or personal property,  
301 human resources, and operational support.

302 ~~b.2-~~ Implementing an annual reconciliation process to  
303 ensure that each customer entity is paying for the full direct  
304 and indirect cost of each service as determined by the customer  
305 entity's use of each service.

306 ~~c.3-~~ Providing rebates that may be credited against future  
307 billings to customer entities when revenues exceed costs.

308 ~~d.4-~~ Requiring customer entities to validate that  
309 sufficient funds exist in the appropriate data processing

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310 appropriation category or will be transferred into the  
311 appropriate data processing appropriation category before  
312 implementation of a customer entity's request for a change in  
313 the type or level of service provided, if such change results in  
314 a net increase to the customer entity's cost for that fiscal  
315 year.

316 e.5. By November 15 of each year, providing to the Office  
317 of Policy and Budget in the Executive Office of the Governor and  
318 to the chairs of the legislative appropriations committees the  
319 projected costs of providing data center services for the  
320 following fiscal year.

321 f.6. Providing a plan for consideration by the Legislative  
322 Budget Commission if the cost of a service is increased for a  
323 reason other than a customer entity's request made pursuant to  
324 sub-subparagraph d. ~~subparagraph 4.~~ Such a plan is required only  
325 if the service cost increase results in a net increase to a  
326 customer entity for that fiscal year.

327 g.7. Standardizing and consolidating procurement and  
328 contracting practices.

329 4.(d) In collaboration with the Department of Law  
330 Enforcement, developing and implementing a process for  
331 detecting, reporting, and responding to information technology  
332 security incidents, breaches, and threats.

333 5.(e) Adopting rules relating to the operation of the  
334 state data center, including, but not limited to, budgeting and

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335 accounting procedures, cost-recovery or other payment  
336 methodologies, and operating procedures.

337 ~~(f) Conducting an annual market analysis to determine~~  
338 ~~whether the state's approach to the provision of data center~~  
339 ~~services is the most effective and cost efficient manner by~~  
340 ~~which its customer entities can acquire such services, based on~~  
341 ~~federal, state, and local government trends; best practices in~~  
342 ~~service provision; and the acquisition of new and emerging~~  
343 ~~technologies. The results of the market analysis shall assist~~  
344 ~~the state data center in making adjustments to its data center~~  
345 ~~service offerings.~~

346 (k) ~~(11)~~ Recommend other information technology services  
347 that should be designed, delivered, and managed as enterprise  
348 information technology services. Recommendations must include  
349 the identification of existing information technology resources  
350 associated with the services, if existing services must be  
351 transferred as a result of being delivered and managed as  
352 enterprise information technology services.

353 (l) ~~(12)~~ In consultation with state agencies, propose a  
354 methodology and approach for identifying and collecting both  
355 current and planned information technology expenditure data at  
356 the state agency level.

357 (m) 1. ~~(13)~~ ~~(a)~~ Notwithstanding any other law, provide  
358 project oversight on any project with an information technology  
359 component ~~project~~ of the Department of Financial Services, the

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360 Department of Legal Affairs, and the Department of Agriculture  
361 and Consumer Services which has a total project cost of \$25  
362 million or more and which impacts one or more other agencies.  
363 Such projects with an information technology component ~~projects~~  
364 must also comply with the applicable information technology  
365 architecture, project management and oversight, and reporting  
366 standards established by the Florida Digital Service ~~department~~.

367 2.(b) When performing the project oversight function  
368 specified in subparagraph 1. paragraph (a), report at least  
369 quarterly to the Executive Office of the Governor, the President  
370 of the Senate, and the Speaker of the House of Representatives  
371 on any project with an information technology component ~~project~~  
372 that the Florida Digital Service ~~department~~ identifies as high-  
373 risk due to the project exceeding acceptable variance ranges  
374 defined and documented in the project plan. The report shall  
375 include a risk assessment, including fiscal risks, associated  
376 with proceeding to the next stage of the project and a  
377 recommendation for corrective actions required, including  
378 suspension or termination of the project.

379 (n)(14) If a project with an information technology  
380 component ~~project~~ implemented by a state agency must be  
381 connected to or otherwise accommodated by an information  
382 technology system administered by the Department of Financial  
383 Services, the Department of Legal Affairs, or the Department of  
384 Agriculture and Consumer Services, consult with these

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385 departments regarding the risks and other effects of such  
386 projects on their information technology systems and work  
387 cooperatively with these departments regarding the connections,  
388 interfaces, timing, or accommodations required to implement such  
389 projects.

390 (o) ~~(15)~~ If adherence to standards or policies adopted by  
391 or established pursuant to this section causes conflict with  
392 federal regulations or requirements imposed on a state agency  
393 and results in adverse action against the state agency or  
394 federal funding, work with the state agency to provide  
395 alternative standards, policies, or requirements that do not  
396 conflict with the federal regulation or requirement. The Florida  
397 Digital Service ~~department~~ shall annually report such  
398 alternative standards to the Governor, the President of the  
399 Senate, and the Speaker of the House of Representatives.

400 (p) 1. ~~(16)~~ ~~(a)~~ Establish an information technology policy  
401 for all information technology-related state contracts,  
402 including state term contracts for information technology  
403 commodities, consultant services, and staff augmentation  
404 services. The information technology policy must include:

405 a.1. Identification of the information technology product  
406 and service categories to be included in state term contracts.

407 b.2. Requirements to be included in solicitations for  
408 state term contracts.

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409 c.3. Evaluation criteria for the award of information  
410 technology-related state term contracts.

411 d.4. The term of each information technology-related state  
412 term contract.

413 e.5. The maximum number of vendors authorized on each  
414 state term contract.

415 2.(b) Evaluate vendor responses for information  
416 technology-related state term contract solicitations and  
417 invitations to negotiate.

418 3.(e) Answer vendor questions on information technology-  
419 related state term contract solicitations.

420 4.(d) Ensure that the information technology policy  
421 established pursuant to subparagraph 1. paragraph (a) is  
422 included in all solicitations and contracts that are  
423 administratively executed by the department.

424 (q)(17) Recommend potential methods for standardizing data  
425 across state agencies which will promote interoperability and  
426 reduce the collection of duplicative data.

427 (r)(18) Recommend open data technical standards and  
428 terminologies for use by state agencies.

429 (2) (a) The Secretary of Management Services shall appoint  
430 a state chief information officer, who shall administer the  
431 Florida Digital Service and is included in the Senior Management  
432 Service.

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433 (b) The state chief information officer shall appoint a  
434 chief data officer, who shall report to the state chief  
435 information officer and is included in the Senior Management  
436 Service.

437 (3) The Florida Digital Service shall develop a  
438 comprehensive enterprise architecture that:

439 (a) Recognizes the unique needs of those included within  
440 the enterprise that results in the publication of standards,  
441 terminologies, and procurement guidelines to facilitate digital  
442 interoperability.

443 (b) Supports the cloud-first policy as specified in s.  
444 282.206.

445 (c) Addresses how information technology infrastructure  
446 may be modernized to achieve cloud-first objectives.

447 (4) The Florida Digital Service shall, pursuant to  
448 legislative appropriation:

449 (a) Create and maintain a comprehensive indexed data  
450 catalog that lists what data elements are housed within the  
451 enterprise and in which legacy system or application these data  
452 elements are located.

453 (b) Develop and publish, in collaboration with the  
454 enterprise, a data dictionary for each agency that reflects the  
455 nomenclature in the comprehensive indexed data catalog.

456 (c) Review and document use cases across the enterprise  
457 architecture.

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458       (d) Develop, publish, and manage an application  
459 programming interface to facilitate integration throughout the  
460 enterprise.

461       (e) Facilitate collaborative analysis of enterprise  
462 architecture data to improve service delivery.

463       (f) Provide a testing environment in which any newly  
464 developed solution can be tested for compliance within the  
465 enterprise architecture and for functionality assurance before  
466 deployment.

467       (g) Create the functionality necessary for a secure  
468 ecosystem of data interoperability that is compliant with the  
469 enterprise architecture and allows for a qualified entity to  
470 access the stored data under the terms of the agreement with the  
471 department.

472       (h) Develop and deploy applications or solutions to  
473 existing enterprise obligations in a controlled and phased  
474 approach, including, but not limited to:

475           1. Digital licenses, including full identification  
476 management.

477           2. Interoperability that enables supervisors of elections  
478 to authenticate voter eligibility in real time at the point of  
479 service.

480           3. The criminal justice database.

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481 4. Motor vehicle insurance cancellation integration  
482 between insurers and the Department of Highway Safety and Motor  
483 Vehicles.

484 5. Interoperability solutions between agencies, including,  
485 but not limited to, the Department of Health, the Agency for  
486 Health Care Administration, the Agency for Persons with  
487 Disabilities, the Department of Education, the Department of  
488 Elderly Affairs, and the Department of Children and Families.

489 6. Interoperability solutions to support military members,  
490 veterans, and their families.

491 (5) Pursuant to legislative authorization and subject to  
492 appropriation:

493 (a) The department may procure a credential service  
494 provider through a competitive process pursuant to s. 287.057.  
495 The terms of the contract developed from such procurement must  
496 pay for the value on a per-data-call or subscription basis, and  
497 there shall be no cost to the enterprise or law enforcement for  
498 using the services provided by the credential service provider.

499 (b) The department may enter into agreements with  
500 electronic credential providers that have the technological  
501 capabilities necessary to integrate with the credential service  
502 provider; ensure secure validation and authentication of data;  
503 meet usage criteria; and agree to terms and conditions, privacy  
504 policies, and uniform remittance terms relating to the  
505 consumption of an electronic credential. These agreements must

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506 include clear, enforceable, and significant penalties for  
507 violations of the agreements.

508 (c) The department may enter into agreements with  
509 qualified entities that meet usage criteria and agree to the  
510 enterprise architecture terms of service and privacy policies.  
511 These agreements must include clear, enforceable, and  
512 significant penalties for violations of the agreements.

513 (d) The terms of the agreements between the department and  
514 the credential service provider, the electronic credential  
515 providers, and the qualified entities shall be based on the per-  
516 data-call or subscription charges to validate and authenticate  
517 an electronic credential and allow the department to recover any  
518 state costs for implementing and administering an electronic  
519 credential solution. Credential service provider, electronic  
520 credential provider, and qualifying entity revenues may not be  
521 derived from any other transactions that generate revenue for  
522 the enterprise outside of the per-data-call or subscription  
523 charges.

524 (e) All revenues generated from the agreements with the  
525 credential service provider, electronic credential providers,  
526 and qualified entities shall be remitted to the department, and  
527 the department shall deposit these revenues into the Department  
528 of Management Services Operating Trust Fund for distribution  
529 pursuant to a legislative appropriation and department

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530 agreements with the credential service provider, electronic  
531 credential providers, and qualified entities.

532 (f) Upon the signing of the agreement and the enterprise  
533 architecture terms of service and privacy policies with a  
534 qualified entity or an electronic credential provider, the  
535 department shall provide to the qualified entity or the  
536 electronic credential provider, as applicable, appropriate  
537 access to the stored data to facilitate authorized integrations  
538 to collaboratively solve enterprise use cases.

539 (6) The Florida Digital Service may develop a process to:

540 (a) Receive written notice from the state agencies within  
541 the enterprise of any planned or existing procurement of an  
542 information technology project that is subject to governance by  
543 the enterprise architecture.

544 (b) Intervene in any planned procurement by a state agency  
545 so that the procurement complies with the enterprise  
546 architecture.

547 (c) Report to the Governor, the President of the Senate,  
548 and the Speaker of the House of Representatives on any  
549 information technology project within the judicial branch that  
550 does not comply with the enterprise architecture.

551 (7)-(19) The Florida Digital Service may adopt rules to  
552 administer this section.

553 Section 4. Section 282.00515, Florida Statutes, is amended  
554 to read:

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555           282.00515 Enterprise Architecture Advisory Council Duties  
556 ~~of Cabinet Agencies. The Department of Legal Affairs, the~~  
557 ~~Department of Financial Services, and the Department of~~  
558 ~~Agriculture and Consumer Services shall adopt the standards~~  
559 ~~established in s. 282.0051(2), (3), and (7) or adopt alternative~~  
560 ~~standards based on best practices and industry standards, and~~  
561 ~~may contract with the department to provide or perform any of~~  
562 ~~the services and functions described in s. 282.0051 for the~~  
563 ~~Department of Legal Affairs, the Department of Financial~~  
564 ~~Services, or the Department of Agriculture and Consumer~~  
565 ~~Services.~~

566           (1) (a) The Enterprise Architecture Advisory Council, an  
567 advisory council as defined in s. 20.03(7), is established  
568 within the Department of Management Services. The council shall  
569 comply with the requirements of s. 20.052, except as otherwise  
570 provided in this section.

571           (b) The council shall consist of the following members:

572           1. Four members appointed by the Governor.

573           2. One member appointed by the President of the Senate.

574           3. One member appointed by the Speaker of the House of

575 Representatives.

576           4. One member appointed by the Chief Justice of the

577 Supreme Court.

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578       5. The director of the Office of Policy and Budget in the  
579 Executive Office of the Governor, or the person acting in the  
580 director's capacity should the position be vacant.

581       6. The Secretary of Management Services, or the person  
582 acting in the secretary's capacity should the position be  
583 vacant.

584       7. The state chief information officer, or the person  
585 acting in the state chief information officer's capacity should  
586 the position be vacant.

587       8. The chief information officer of the Department of  
588 Financial Services, or the person acting in the chief  
589 information officer's capacity should the position be vacant.

590       9. The chief information officer of the Department of  
591 Legal Affairs, or the person acting in the chief information  
592 officer's capacity should the position be vacant.

593       10. The chief information officer of the Department of  
594 Agriculture and Consumer Services, or the person acting in the  
595 chief information officer's capacity should the position be  
596 vacant.

597       (2) (a) The appointments made by the Governor, the  
598 President of the Senate, the Speaker of the House of  
599 Representatives, and the Chief Justice of the Supreme Court are  
600 for terms of 4 years. However, for the purpose of providing  
601 staggered terms:

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602 1. The appointments made by the Governor, the President of  
603 the Senate, and the Speaker of the House of Representatives are  
604 for initial terms of 2 years.

605 2. The appointment made by the Chief Justice is for an  
606 initial term of 3 years.

607 (b) A vacancy on the council among members appointed under  
608 subparagraph (1)(b)1., subparagraph (1)(b)2., subparagraph  
609 (1)(b)3., or subparagraph (1)(b)4. shall be filled in the same  
610 manner as the original appointment for the remainder of the  
611 unexpired term.

612 (c) The council shall elect a chair from among its  
613 members.

614 (d) The council shall meet at least semiannually,  
615 beginning October 1, 2020, to discuss implementation,  
616 management, and coordination of the enterprise architecture as  
617 defined in s. 282.0041; identify potential issues and threats  
618 with specific use cases; and recommend proactive solutions. The  
619 council may conduct its meetings through teleconferences or  
620 other similar means.

621 Section 5. Paragraph (a) of subsection (3) of section  
622 282.318, Florida Statutes, is amended to read:

623 282.318 Security of data and information technology.—

624 (3) The department is responsible for establishing  
625 standards and processes consistent with generally accepted best  
626 practices for information technology security, to include

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627 cybersecurity, and adopting rules that safeguard an agency's  
628 data, information, and information technology resources to  
629 ensure availability, confidentiality, and integrity and to  
630 mitigate risks. The department shall also:

631 (a) Designate a state chief information security officer  
632 who shall report to the state chief information officer of the  
633 Florida Digital Service and is in the Senior Management Service.  
634 The state chief information security officer must have  
635 experience and expertise in security and risk management for  
636 communications and information technology resources.

637 Section 6. Subsection (4) of section 287.0591, Florida  
638 Statutes, is amended to read:

639 287.0591 Information technology.—

640 (4) If the department issues a competitive solicitation  
641 for information technology commodities, consultant services, or  
642 staff augmentation contractual services, the Florida Digital  
643 Service Division of State Technology within the department shall  
644 participate in such solicitations.

645 Section 7. Paragraph (a) of subsection (3) of section  
646 365.171, Florida Statutes, is amended to read:

647 365.171 Emergency communications number E911 state plan.—

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

649 (a) "Office" means the Division of Telecommunications  
650 ~~State Technology~~ within the Department of Management Services,  
651 as designated by the secretary of the department.

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652 Section 8. Paragraph (s) of subsection (3) of section  
653 365.172, Florida Statutes, is amended to read:

654 365.172 Emergency communications number "E911."—

655 (3) DEFINITIONS.—Only as used in this section and ss.  
656 365.171, 365.173, 365.174, and 365.177, the term:

657 (s) "Office" means the Division of Telecommunications  
658 ~~State Technology~~ within the Department of Management Services,  
659 as designated by the secretary of the department.

660 Section 9. Paragraph (a) of subsection (1) of section  
661 365.173, Florida Statutes, is amended to read:

662 365.173 Communications Number E911 System Fund.—

663 (1) REVENUES.—

664 (a) Revenues derived from the fee levied on subscribers  
665 under s. 365.172(8) must be paid by the board into the State  
666 Treasury on or before the 15th day of each month. Such moneys  
667 must be accounted for in a special fund to be designated as the  
668 Emergency Communications Number E911 System Fund, a fund created  
669 in the Division of Telecommunications ~~State Technology~~, or other  
670 office as designated by the Secretary of Management Services.

671 Section 10. Subsection (5) of section 943.0415, Florida  
672 Statutes, is amended to read:

673 943.0415 Cybercrime Office.—There is created within the  
674 Department of Law Enforcement the Cybercrime Office. The office  
675 may:

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676 (5) Consult with the Florida Digital Service Division of  
677 State Technology within the Department of Management Services in  
678 the adoption of rules relating to the information technology  
679 security provisions in s. 282.318.

680 Section 11. Effective July 1, 2020, for the 2020-2021  
681 fiscal year, the sum of \$50,000 in nonrecurring funds is  
682 appropriated from the Administrative Trust Fund to the Office of  
683 Financial Regulation to implement s. 560.214, Florida Statutes,  
684 as created by this act.

685

686

687 -----  
T I T L E A M E N D M E N T

688 Remove lines 6-29 and insert:  
689 amending s. 282.0041, F.S.; providing definitions;  
690 amending s. 282.0051, F.S.; establishing the Florida  
691 Digital Service within the department; transferring  
692 specified powers, duties, and functions; providing  
693 appointments and duties of the state chief information  
694 officer and chief data officer of the Florida Digital  
695 Service; requiring the Florida Digital Service to  
696 develop a comprehensive enterprise architecture;  
697 providing requirements for such enterprise  
698 architecture; providing duties and authorities of the  
699 Florida Digital Service; providing duties of the  
700 department under certain circumstances; providing

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701 requirements for the procurement terms of contract  
702 under certain circumstances; prohibiting costs to the  
703 enterprise and law enforcement for using services  
704 provided by credential service providers under certain  
705 circumstances; providing requirements for agreements  
706 between the department and credential service  
707 providers, electronic credential providers, and  
708 qualified entities under certain circumstances;  
709 providing disposition of revenues generated from such  
710 agreements under certain circumstances; providing  
711 report requirements; providing rulemaking authority;  
712 amending s. 282.00515, F.S.; deleting provisions  
713 relating to specified duties and powers of the  
714 Department of Legal Affairs, the Department of  
715 Financial Services, and the Department of Agriculture  
716 and Consumer Services; establishing the Enterprise  
717 Architecture Advisory Council; requiring the council  
718 to comply with specified requirements; providing  
719 membership and meeting requirements and duties of the  
720 council; amending ss. 282.318, 287.0591, 365.171,  
721 365.172, 365.173, and 943.0415, F.S.; conforming  
722 provisions to changes made by the act; providing an  
723 appropriation; creating s.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1395 Fees/Financial Technology Sandbox Applications  
**SPONSOR(S):** Insurance & Banking Subcommittee, Sirois  
**TIED BILLS:** HB 1391 **IDEN./SIM. BILLS:** SB 1874

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	14 Y, 0 N, As CS	Hinshelwood	Cooper
2) Government Operations & Technology Appropriations Subcommittee		Mullins	Topp <b>BDT</b>
3) State Affairs Committee			

### SUMMARY ANALYSIS

House Bill 1391 (2020), which this bill is linked to, creates the Financial Technology Sandbox within the Office of Financial Regulation (OFR). The Financial Technology Sandbox is intended to allow financial technology innovators to test innovative financial products or services in a supervised, flexible regulatory sandbox, using waivers of specified general law and corresponding rule requirements under defined conditions. Under the Financial Technology Sandbox, the OFR may waive or modify certain fees in existing statutes.

The bill makes clear that the OFR may not waive or modify any fee provided under ch. 560, F.S., except as authorized under the Financial Technology Sandbox.

This bill has no fiscal impact on state government, local governments, or the private sector.

This bill will take effect on the same date that HB 1391 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

House Bill 1391 (2020), which this bill is linked to, creates the Financial Technology Sandbox within the Office of Financial Regulation (OFR). The Financial Technology Sandbox is intended to allow financial technology innovators to test innovative financial products or services in a supervised, flexible regulatory sandbox, using waivers of specified general law and corresponding rule requirements under defined conditions. Under the Financial Technology Sandbox, the OFR may waive or modify certain fees in existing statutes.

##### **Effect of Proposed Changes**

The bill makes clear that the OFR may not waive or modify any fee provided under ch. 560, F.S., except as authorized under the Financial Technology Sandbox.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 560.214, F.S., as created in HB 1391, relating to Financial Technology Sandbox Act.

**Section 2:** Provides that the bill will take effect on the same date that HB 1391 or similar legislation takes effect, if such 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:

None.

##### 2. Expenditures:

None.

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

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

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

None.

#### 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:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2020, the Insurance & Banking Subcommittee considered one amendment, which was adopted, and reported the bill favorably as a committee substitute. The committee substitute removes the application fee for the Financial Technology Sandbox and the fees associated with fingerprinting. Such fees are already provided for in ch. 560, F.S., related to money services businesses. The companion bill, HB 1391, permits waiving or modifying certain fees in existing statutes. The committee substitute makes clear that the OFR may not waive or modify any fee provided under ch. 560, F.S., except as authorized under the Financial Technology Sandbox created by HB 1391.

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

1                   A bill to be entitled  
 2           An act relating to fees; amending s. 560.214, F.S.;  
 3           prohibiting the Office of Financial Regulation from  
 4           waiving or modifying fees for the Financial Technology  
 5           Sandbox except as specified; providing a contingent  
 6           effective date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. Subsection (12) is added to section 560.214,  
 11           Florida Statutes, as created by CS/HB 1391, 2020 Regular  
 12           Session, to read:

13           560.214 Financial Technology Sandbox.—

14           (12) FEES.—The office may not waive or modify any fee  
 15           provided under this chapter except as authorized under this  
 16           section.

17           Section 2. This act shall take effect on the same date  
 18           that CS/HB 1391 or similar legislation takes effect, if such  
 19           legislation is adopted in the same legislative session or an  
 20           extension thereof and becomes a law.