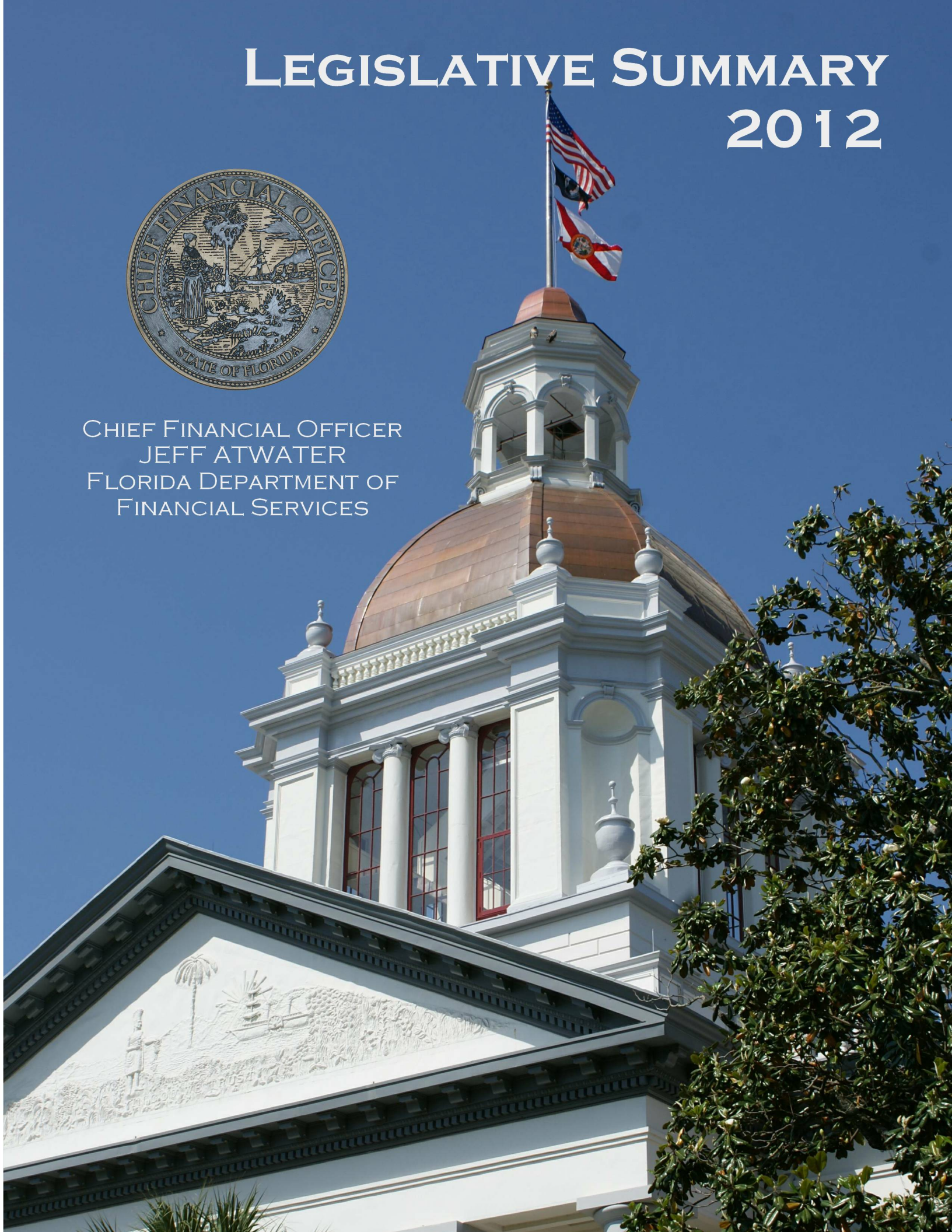
Legislative Summary 2012



Chief Financial Officer
JEFF ATWATER
Florida Department of
Financial Services

INTRODUCTION

This document is an overview of legislation passed by the Florida Legislature during the 2012 Regular Legislative Session affecting the Department of Financial Services.

Access to all bills, their final action, legislative staff analyses, floor amendments, bill history and Florida Statutes citations are available through the Internet. The Internet address for the Florida Legislature Online Sunshine web site is:

http://www.leg.state.fl.us

For additional information on legislation passed by the Florida Legislature you may contact the Office of Legislative Affairs at (850) 413-2863.

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SB 2 – Relief/William Dillon: Approved by Governor and effective March 1, 2012; by Senator Haridopolos.

This bill provides William Dillon, who spent 27 years wrongfully incarcerated, with 1.35 million dollars in relief. The Chief Financial Officer is required to purchase an annuity for Mr. Dillon.

HB 119 – Motor Vehicle Personal Injury Protection Insurance: Chapter Law 2012-197, LOF; effective July 1, 2012; by Representative Boyd and others.

The bill revises the Florida Motor Vehicle No-Fault Law. The bill primarily amends laws governing Personal Injury Protection (PIP) benefits under the No-Fault law and laws related to PIP motor-vehicle insurance fraud. The major changes enacted by the bill are as follows:

PIP Medical Benefits

The bill revises the provision of Personal Injury Protection medical benefits under the Florida Motor Vehicle No-Fault Law, effective January 1, 2013. Individuals seeking PIP medical benefits are required to receive initial services and care within 14 days after the motor vehicle accident. Initial services and care are only compensable if lawfully provided, supervised, ordered or prescribed by a licensed physician, licensed osteopathic physician, licensed chiropractic physician, licensed dentist, or must be rendered in a hospital, a facility that owns or is owned by a hospital, or a licensed emergency transportation and treatment provider. Follow up services and care require a referral from such providers and must be consistent with the underlying medical diagnosis rendered when the individual received initial services and care.

The bill applies two different coverage limits for PIP medical benefits, based upon the severity of the medical condition of the individual. An individual may receive up to $10,000 in medical benefits for services and care if a physician, osteopathic physician, dentist, physician's assistant or advanced registered nurse practitioner has determined that the injured person had an emergency medical condition. An emergency medical condition is defined as a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part. For an individual who is not diagnosed with an emergency medical condition, the PIP medical benefit limit is $2,500. Massage and acupuncture are not reimbursable, regardless of the type of provider rendering such services.

PIP Death Benefit

Personal Injury Protection now offers $5,000 in death benefits in addition to $10,000 in medical and disability benefits. Previously, the death benefit was the lesser of the unused PIP benefits, up to a limit of $5,000. The increased death benefit is effective January 1, 2013.

PIP Medical Fee Schedule

The bill revises provisions related to the PIP medical fee schedule in an effort to resolve alleged ambiguities in the schedule that have led to conflicts and litigation between claimants and insurers. The bill clarifies that the reimbursement levels for care provided by ambulatory surgical

centers and clinical laboratories and for durable medical equipment is 200 percent of the appropriate Medicare Part B schedule. The Medicare fee schedule in effect on March 1 will be the applicable fee schedule for the remainder of that year until the subsequent update. Insurers are authorized to use Medicare coding policies and payment methodologies established by the Centers for Medicare and Medicare Services, including applicable modifiers, when applying the fee schedule if they do not constitute a utilization limit. The bill also requires insurers to include notice of the fee schedule in their policies. These provisions are effective January 1, 2013.

Attorney Fees

The bill amends provisions related to attorney fee awards in No-Fault disputes. The bill prohibits the application of attorney fee multipliers. The offer of judgment statute, s. 768.79, F.S., is applied to No-Fault cases, providing statutory authority for insurers to recover fees if the plaintiff's recovery does not exceed the insurer's settlement offer by a statutorily specified percentage. The bill maintains current law allowing a party that obtains a favorable judgment from an insurer to recover reasonable attorney fees from the insurer. The bill also requires that the attorney fees awarded must comply with prevailing professional standards, not overstate or inflate the number of hours reasonably necessary for a case of comparable skill or complexity, and represent legal services that were reasonable to achieve the result obtained.

Investigation and Payment of Claims

Provisions relating to the investigation of PIP claims by insurers are revised effective January 1, 2013. Insurers are authorized to take an examination under oath (EUO) of an insured. Compliance is a condition precedent for receiving benefits (the insurer owes zero benefits if the insured does not comply). An insurer that unreasonably requests EUOs as a general business practice, as determined by the Office of Insurance Regulation (OIR), is subject to s. 626.9541, F.S. of the Unfair Insurance Trade Practices Act. The bill also provides that if a person unreasonably fails to appear for an independent medical examination (IME), the carrier is no longer responsible for benefits. Refusal or failure to appear for two IMEs raises a rebuttable presumption that such refusal or failure was unreasonable.

Changes are made to the statutory process for the payment of PIP benefits, primarily to assist claimants in their claim submissions effective January 1, 2013. A claimant whose claim is denied due to an error in the claim is given 15 additional days to correct the erroneous claim and resubmit it timely. The insurer must maintain a log of all PIP benefits paid on behalf of the insured and must provide the log to the insured upon his or her request if litigation has initiated. If a dispute between insurers and insureds occurs, the insurer must provide notice within 15 days of the exhaustion of PIP benefits. Insurers must reimburse Medicaid within 30 days. The electronic submission of records is authorized effective December 1, 2012.

Prevention of PIP-Related Insurance Fraud

House Bill 119 contains numerous provisions designed to curtail PIP fraud. The bill defines insurance fraud as knowingly presenting a PIP claim to an insurer for payment or other benefits on behalf of a person or entity that committed fraud when applying for health care clinic licensure, seeking an exemption from clinic licensure, or demonstrating compliance with the Health Care Clinic Law. Claims that are unlawful under the patient brokering law (s. 817.505, F.S.) are not compensable under the No-Fault Law. A health care practitioner found guilty of

insurance fraud under s. 817.234, F.S., loses his or her license for 5 years and may not receive PIP reimbursement for 10 years. Insurers are provided an additional 60 days (90 days total) to investigate suspected fraudulent claims, however, an insurer that ultimately pays the claim must also pay an interest penalty.

All entities seeking reimbursement under the No-Fault Law must obtain health care clinic licensure except for hospitals, ambulatory surgical centers, entities owned or wholly owned by a hospital, clinical facilities affiliated with an accredited medical school and practices wholly owned by a physician, dentist, or chiropractic physician or by such physicians and specified family members. The bill creates standards for evaluating whether an entity claiming it is exempt from the requirement to obtain clinic licensure is actually wholly owned by a physician.

The bill defines failure to pay PIP claims within the time limits of s. 627.736(4)(b), F.S., as an unfair and deceptive practice. OIR may order restitution to the insured or provider, but is not limited in its other administrative penalties, which may include suspending the insurer's certificate of authority.

Law enforcement is required to complete a long-form crash report when there is an indication of pain or discomfort by any party to a crash. All crash reports completed by law enforcement must identify the vehicle in which each party was a driver or passenger. For all crashes that do not require a law enforcement report, the vehicle driver must submit a report on the crash to the Department of Highway Safety and Motor Vehicles within 10 days of the crash.

The bill creates a non-profit direct support organization, the Automobile Insurance Fraud Strike Force, which can accept private donations for the purposes of preventing, investigating, and prosecuting motor vehicle insurance fraud. Monies raised by the Strike Force may fund the salaries of insurance fraud investigators, prosecutors, and support personnel so long as such grants or expenditures do not interfere with prosecutorial independence. Funds may not be used to advertise using the likeness or name of any elected official or for lobbying.

Mandatory Rate Filings and Data Call

The Office of Insurance Regulation must contract with a consulting firm to calculate the expected savings from the act, which must be presented to the Governor and Legislature by September 15, 2012. By October 1, 2012, each insurer that writes private passenger automobile personal injury protection insurance must submit a rate filing. If the insurer requests a rate that does not provide at least a 10 percent reduction of its current rate, it must explain in detail its reasons for failing to achieve those savings. A second rate filing must be made by January 1, 2014. If the insurer requests a rate that does not provide at least a 25 percent reduction of the rate that was in effect on July 1, 2012, it must explain in detail its reasons for failing to achieve those savings. The Office of Insurance Regulation must order an insurer to stop writing new PIP policies if the insurer requests a rate in excess of the statutorily required rate reduction and fails to provide a detailed explanation for that failure. The Office of Insurance Regulation must perform a comprehensive PIP data call and publish the results by January 1, 2015. The data call will analyze the impact of the act's reforms on the PIP insurance market.

SB 140 – Repeal of Workers' Compensation Reporting Requirement: Chapter Law 2012-34, LOF; effective July 1, 2012, by Senator Bennett.

The bill repeals s. 440.59, F.S., which requires the Department of Financial Services (DFS) to compile an annual written report on the administration of Florida's Workers' Compensation Law and submit copies of the annual report to the Legislature and the Governor. The Division of Workers' Compensation within DFS is responsible for preparing this report. Information contained in the annual report is available on the DFS website.

SB 276 – Recognition of Military Personnel and Veterans: Chapter Law 2012-199, LOF; effective July 1, 2012; by Senator Sachs and others.

Florida Veterans' Hall of Fame Council
The bill amends s. 265.003, F.S., to create the Florida Veterans' Hall of Fame Council (Council) within the Florida Department of Veterans (FDVA). The Council is created to serve as an advisory body tasked with annually accepting nominations of persons to be considered for induction into the existing Florida Veterans' Hall of Fame. The Council is required to annually transmit a list of 20 nominees to the FDVA for submission to the Governor and Cabinet, who select the nominees to be inducted.

The Council consists of 7 honorably discharged veterans to which the Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, the President of the Senate, the Speaker of the House of Representatives, and the executive director of the FDVA each appoint one member. Members of the Council are prohibited from receiving compensation for their services, but are entitled to reimbursement for travel expenses incurred in the performance of their duties. However, the bill prohibits state funds from being used for travel reimbursement purposes.

Note: This provision establishing the Florida Veterans' Hall of Fame Council was also passed in SB 922.

HB 541 – Administrative Procedures: Chapter Law 2012-63, LOF; effective October 1, 2012; by Representative Brandes and others.

The bill provides that the online version of the *Florida Administrative Code* is the official version for the state. The Department of State is no longer required to publish a printed version of the *Florida Administrative Code*.

In addition, the bill changes the name of the *Florida Administrative Weekly* to the *Florida Administrative Register*. The online version of the *Florida Administrative Register* is the official version. The Department of State may no longer provide free print copies of the *Florida Administrative Register* to federal and state government entities. A printed copy of the *Florida Administrative Register* may be made available on an annual subscription basis.

The bill provides that the Department of State is no longer responsible for reviewing entity submissions to the *Florida Administrative Register* for formatting, grammatical, or typographical errors. Entities are responsible for proofreading their documents and assume full responsibility for the accuracy of documents submitted.

Finally, the bill directs the Division of Statutory Revision to prepare a reviser's bill for the 2013 Regular Session to substitute the term *Florida Administrative Register* for the term *Florida Administrative Weekly* throughout the Florida Statutes.

SB 608 – Florida Healthy Kids Corporation: Chapter Law 2012-42, LOF; effective April 6, 2012; by Senator Flores.

The bill adds one member to the Board of Directors of the Florida Healthy Kids Corporation. The additional member will be appointed by the Governor from among three nominees submitted by the Florida Dental Association.

HB 629 – Public Records/Agency Personnel Information/Date of Birth: Chapter Law 2012-149, LOF; effective October 1, 2012; by Representative Hooper and others.

The bill expands the public record exemptions for identification and location information of certain public employees to include dates of birth of the public employees and of their spouses and children. It also specifies that the public record exemption for identification and location information of law enforcement personnel applies to sworn and civilian law enforcement personnel.

The bill defines the term "telephone numbers" to include home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

The bill specifies that the exemptions apply to information held before, on, or after the effective date of the exemptions.

The bill provides for repeal of the exemptions on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

HB 643 – Title Insurance: Chapter Law 2012-206, LOF; effective July 1, 2012; by Representative Moraitis.

Title Insurance Forms

The bill requires OIR to approve or disapprove filed title insurance forms within 180 days of receipt. (Currently, there are no timeframes within which filed forms must be approved or disapproved.) When approving a form, OIR must determine if the current rate applies or if the

coverages require rulemaking. To prevent a competitive advantage to an insurer that has received approval of a filed form, OIR is required to expeditiously approve forms filed by other insurers that contain identical coverages, rates, and approved deviations as the approved form.

Submission of Data to OIR
Title insurers, their direct or retail businesses in the state, and title agencies will be required to submit to OIR, on or before March 31 of each year, revenue, loss, and expense data for the most recently concluded year that are determined necessary to assist in the analysis of premium rates, title search costs, and the condition of the Florida title insurance industry. The Financial Services Commission is authorized to adopt rules regarding the collection and analysis of the data. Failure to submit the required data timely to OIR will constitute grounds for DFS to take disciplinary action against the license or appointment of the title insurance agent or agency. Possible sanctions include suspension or revocation of a license or appointment.

Separate Escrow Account for Specified Funds Held by Attorneys
Attorneys who serve as title insurance or real estate settlement agents will be required to deposit and maintain funds received in connection with such transactions into a separate trust account, unless maintaining funds in the separate account for a particular client would violate rules of the Florida Bar. Attorneys are required to allow insurers for whom they hold funds to audit the separate account.

Continuing Education Requirements for Title Insurance Agents
While the number of continuing education (CE) hours title insurance agents must complete every 2 years remains unchanged (10 hours), the bill requires that the credits be earned in title insurance and escrow management courses specific to Florida, and which have been approved by DFS. At least 3 of these hours must be in ethics, rules, or compliance with state and federal regulations relating to title insurance and closing services.

HB 645 – Public Records/Title Insurance Data/Office of Insurance Regulation:

Chapter Law 2012-207, LOF; effective July 1, 2012; by Representative Moraitis.

The bill provides that proprietary business information provided to the Office of Insurance Regulation (OIR) by a title insurance agency or insurer is confidential and exempt from public records requirements until such information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information. However, information provided by multiple title insurance agencies and insurers may be aggregated on an industry-wide basis and disclosed to the public as long as the specific identities of the agencies or insurers are not revealed.

The bill defines "proprietary business information" as information that:

- Is owned or controlled by a title insurance agency or insurer requesting confidentiality under this section;
- Is intended to be and is treated by the title insurance agency or insurer as private in that the disclosure of the information would cause harm to the business operations of the title insurance agency or insurer;

- Has not been publicly disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement, providing that the information may be released to the public; and
- Concerns business plans, internal auditing controls and reports of internal auditors, reports of external auditors for privately held companies, trade secrets as defined in s. 688.002, F.S., or financial information, including, but not limited to, revenue data, loss expense data, gross receipts, taxes paid, capital investment, customer identification, and employee wages.

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

HB 653 – Health Care Fraud: Chapter Law 2012-64, LOF; effective July 1, 2012; by Representatives Cruz and Costello.

The bill amends s. 456.0635, F.S., to ease licensure and licensure renewal requirements for health care practitioners who have been convicted of a felony under ch. 409, F.S., relating to social and economic assistance, including the Florida Medicaid program; ch. 817, F.S., relating to fraudulent practices; ch. 893, F.S., relating to controlled substances; or a similar felony offense committed in another state or jurisdiction. The bill establishes differing timeframes in which an applicant must wait for licensure approval depending upon the nature of the conviction.

In order to be licensed or to renew a license, an applicant must not:

- Have been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, an offense under the specified laws and any subsequent period of probation ended:
  - For felonies of the first or second degree, more than 15 years before the date of application.
  - For felonies of the third degree, except those under s. 893.13(6)(a), F.S., relating to unlawful possession of controlled substances, more than 10 years before the date of application.
  - For felonies of the third degree under s. 893.13(6)(a), F.S., more than 5 years before the date of application.
- Have been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970, relating to federal controlled substance laws, or 42 U.S.C. ss. 1395-1396, relating to the federal Medicare, Medicaid, and related programs, unless the subsequent conviction or plea ended more than 15 years before the date of application;
- Have been terminated for cause from the Florida Medicaid program, unless he or she has been in good standing for the most recent 5 years (already in statute);
- Have been terminated for cause from any other state Medicaid program unless he or she has been in good standing with a state Medicaid program for the most recent 5 years and the termination occurred at least 20 years before the date of application (already in statute); or

- Be currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

These provisions do not apply to applicants for initial licensure who were enrolled in an educational program recognized by the Department of Health on or before July 1, 2009 and who applied for licensure after July 1, 2012.

A person who is denied licensure renewal under the provisions of this bill may only regain licensure by meeting the qualifications and completing the application process for initial licensure as defined by the appropriate practice board or the Department of Health. However, a person who was denied licensure under s. 456.0635, F.S., as it existed between July 1, 2009, and June 30, 2012, is not required to retake and pass any examinations necessary for licensure.

SB 704 – Building Construction and Inspection: Chapter Law 2012-13, LOF; effective July 1, 2012, except as otherwise provided; by Senator Bennett.

This bill amends a number of provisions related to building construction and inspection. Of note for the department is language that includes fire safety inspectors among those eligible to take the building code inspector or plans examiner certification exam and shortens the time length of a provisional certificate for newly employed or promoted inspectors or examiners.

HB 725 – Insurance Agents and Adjusters: Chapter Law 2012-209, LOF; effective October 1, 2012; by Representative Hager.

The bill substantially revises the Licensing Procedures Law for insurance agents, adjusters, and limited lines licensees. The bill creates the new licensure classification of all-lines adjuster to replace the current licensure classifications of independent adjuster and company employee adjuster. The classifications of independent adjuster and all-lines adjuster are converted to appointment types for licensed all-lines adjusters.

The bill prohibits an employee or an agent or agency from initiating contact with any proposed insured for the purpose of soliciting title insurance unless the employee is licensed as a title insurance agent or exempt from such licensure. The bill also provides that failure to comply with any civil, criminal, or administrative action taken by child support enforcement program under Title IV-D of the Social Security Act is grounds for action against an applicant, licensee, or appointee.

The bill substantially revises the continuing education requirements for licensees. Each licensee will be required to complete a 5-hour update course every 2 years. The bill also revises licensure provisions related to a number of limited insurance licenses

SB 730 – Medicaid Managed Care Plans: Chapter Law 2012-44, LOF; effective July 1, 2012, except as otherwise provided; by Representative Flores and others.

Effective May 12, 2012, the bill limits the scope of the Subscriber Assistance Program, which provides assistance to subscribers of certain managed care entities who have grievances that have not been resolved by the internal grievance process of the managed care entity. The bill limits review by the Subscriber Assistance Program to unresolved grievances from subscribers of prepaid health clinics certified under ch. 641, F.S., Florida Healthy Kids plans, and health insurance policies or health maintenance organization contracts that meet the grandfathered health plan coverage provisions under the federal Patient Protection and Affordable Care Act. However, the Subscriber Assistance Program is not applicable to such a health plan if the plan elects to have all of its policies or contracts subject to applicable internal grievance and external review processes by an independent review organization. Such a plan must notify the Agency for Health Care Administration (AHCA) in writing if it elects to have all of its policies or contracts subject to external review.

The bill authorizes AHCA to extend or modify its current contracts prior to October 1, 2014 with comprehensive behavioral health care providers that are reimbursed through a capitated, prepaid arrangement in order to ensure continuity of care as the state transitions to statewide managed care. The bill also repeals the October 1, 2014 expiration date set for s. 409.912(21), F.S., that authorizes AHCA to impose a fine on a Medicaid contract provider that violates s. 409.912, F.S., or its contract with AHCA.

The bill authorizes AHCA to calculate a medical loss ratio for managed care plans in the existing Medicaid reform pilot program and the new statewide Medicaid managed care program, if required as a condition of a Medicaid waiver. Expenditures must be classified in a manner consistent with the medical loss ratio requirements under the federal Patient Protection and Affordable Care Act, except that funds provided by plans to graduate medical education institutions to underwrite the costs of residency positions are to be classified as medical expenditures under specified circumstances. Also, prior to final determination of the medical loss ratio, a plan may contribute to a designated state trust fund for the purpose of supporting Medicaid and indigent care and have the contribution counted as a medical expenditure.

The bill specifies that contracts between AHCA and a person or entity, including Medicaid providers and managed care plans, necessary to administer the Medicaid program are not rules and are not subject to ch. 120, F.S.

The definition of "comprehensive long-term care plan," as it is used in the statewide managed care program, is amended to include a Medicare Advantage Special Needs Plan organized as a preferred provider organization, provider-sponsored organization, health maintenance organization, or coordinated care plan. The definition of "eligible plan" is amended to include additional Medicare Advantage plans for purposes of the managed medical assistance program.

The bill modifies the criteria AHCA must use in giving preferences in the selection of eligible plans in the new statewide managed care program. The bill clarifies the preference that is to be given to organizations that are based in and perform operational functions in this state to include

corporate headquarters as an operational function. The term "corporate headquarters" is defined to mean the principal office of the organization.

The penalty provisions for plans in the statewide Medicaid managed care program that reduce enrollment levels or leave a region before the end of their contract term are modified to specify that all departing plans must pay a penalty of 25 percent of that portion of the minimum surplus required by law *which is attributable to the provision of coverage to Medicaid enrollees*, not all their lines of business.

The bill changes a reference to primary care *physician* to primary care *provider* in the primary care initiative under the statewide Medicaid managed care program. The change clarifies that primary care may be provided by a health care practitioner other than a physician, such as an advanced registered nurse practitioner.

The bill amends the requirements for participation of specialty plans in the statewide Medicaid managed care program to exempt specialty plans from the regional plan number limits, however the aggregate enrollment of all specialty plans in a region may not exceed 10 percent of the total enrollees of that region.

The bill specifies that participation of Medicare Advantage plans in the statewide Medicaid managed care program shall be pursuant to a contract with AHCA that is consistent with the Medicare Improvement for Patients and Providers Act of 2008. Such plans are not subject to the procurement requirements of the statewide Medicaid managed care program if the plan's Medicaid enrollees consist exclusively of dually eligible recipients who are enrolled in the plan in order to receive Medicare benefits as of the date that the invitation to negotiate is issued. The participation of Medicare Advantage plans in the long-term care managed care component of the statewide Medicaid managed care program is limited to Medicare Advantage Special Needs Plans.

Effective May 12, 2012, the bill requires certain individual, group, blanket, and franchise health insurance policies to comply with the National Association of Insurance Commissioners Uniform Health Carrier External Review Model Act in accordance with rules adopted by the Office of Insurance Regulation (Financial Services Commission) and certain provisions of the Employee Retirement Income Security Act relating to internal grievances.

HB 777 – Criminal Penalties for Violations of Securities Laws: Chapter Law 2012-68, LOF; effective July 1, 2012; by Representative Eisnaugle.

The bill increases the ranking of securities-related offenses in the Offense Severity Ranking Chart as follows:

- A violation of s. 517.07(1), F.S. (requiring certain securities to be registered prior to sale), increases from a Level 2 offense (equating to 10 sentencing points) to a Level 4 offense (equating to 22 sentencing points).

- A violation of s. 517.12(1), F.S. (requiring securities dealers, associated persons or issuers of securities to be registered), increases from a Level 1 offense (equating to 4 sentencing points) to a Level 4 offense (equating to 22 sentencing points).

As a result, the lowest permissible sentence for violations of ss. 517.07(1) and 517.12(1), F.S., will be increased.

SB 792 – Financial Institutions: Chapter Law 2012-201, LOF; effective May 4, 2012; by Senator Gaetz and others.

The bill requires the Office of Financial Regulation to adopt rules establishing minimum standards that all state chartered financial institutions must adopt to detect whether any correspondent accounts or a payable-through accounts with a foreign financial institution are knowingly:

- Facilitating the efforts of the Iranian Government to develop weapons of mass destruction;
- Providing support to a foreign terrorist organization;
- Facilitating the activities of a person who is subject to financial sanctions by the United Nations Security Council's Iranian sanction resolutions;
- Engaging in related money laundering activity;
- Facilitating efforts by Iranian financial institutions to carry out prohibited activities; or
- Facilitating a significant transaction or providing significant financial services to an entity whose property interests are blocked pursuant to federal law associated with Iran's proliferation of weapons of mass destruction or support for international terrorism.

The bill requires OFR to submit an annual report to the Governor and the Legislature as well as post the report on its website. The bill also authorizes OFR to impose a $100,000 civil penalty against any state chartered financial institution that fails to comply with the annual reporting requirement.

SB 922 – Military Support: Chapter Law 2012-159, LOF; effective July 1, 2012, except as otherwise provided; by Senator Bennett and others.

Florida Veterans' Hall of Fame Council

The bill amends s. 265.003, F.S., to create the Florida Veterans' Hall of Fame Council (Council) within the Florida Department of Veterans (FDVA). The Council is created to serve as an advisory body tasked with annually accepting nominations of persons to be considered for induction into the existing Florida Veterans' Hall of Fame. The Council is required to annually transmit a list of 20 nominees to the FDVA for submission to the Governor and Cabinet, who select the nominees to be inducted.

The Council consists of 7 honorably discharged veterans to which the Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, the President of the

Senate, the Speaker of the House of Representatives, and the executive director of the FDVA each appoint one member. Members of the Council are prohibited from receiving compensation for their services, but are entitled to reimbursement for travel expenses incurred in the performance of their duties. However, the bill prohibits state funds from being used for travel reimbursement purposes.

Note: This provision establishing the Florida Veterans' Hall of Fame Council was also passed in SB 276.

HB 937 – Legal Notices: Chapter Law 2012-212, LOF; effective July 1, 2012; by Representatives Workman and Williams.

The bill creates a new section of law that applies to legal notices published in accordance with the requirements for legal and official advertisements provided in chapter 50, F.S. A legal notice is required to be placed on a newspaper's website on the same day the notice appears in the newspaper at no additional charge. Effective July 1, 2013, a newspaper that publishes legal notices:

- Must provide a link to access the legal notices on the front page of the newspaper's website without charge;
- Should optimize its online visibility in keeping with print requirements, if there is a specified size and placement required for a printed legal notice;
- Must present the legal notices as the dominant subject matter of the newspaper's web pages that contain legal notices;
- Must contain a search function on the newspaper's website to facilitate searching the legal notices; and
- Must, upon request, provide e-mail notification of new legal notices when they are printed in the newspaper and added to the newspaper's website. Such e-mail notification must be provided without charge and notification for the registry must be available on the front page of the legal notices section of the newspaper's website.

A newspaper publishing a notice is required to place the notice on the website established and maintained as an initiative of the Florida Press Association as a repository for such notices.

An error in a notice placed on a newspaper or statewide website must be considered harmless and proper legal notice requirements must be considered met if the notice published in the newspaper is correct.

The bill deletes the requirement for a newspaper proof of publication affidavit to be printed only on bond paper containing at least 25 percent rag material. In addition, the bill allows a newspaper to provide such affidavits in electronic, rather than paper form, if the notarization of the affidavit complies with statutory electronic notarization requirements.

The bill limits the statutory rates that newspapers are authorized to charge for government notices required to be published more than once in which the cost is paid for by the government and not paid in advance by or allowed to be recouped from private parties. Such charges, for the

second and successive insertions may not be greater than 85 percent of the original rate. The original rate is 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion. This would be equal to a 15 percent cost reduction for such charges.

The bill requires maps that appear in newspaper advertisements for the following purposes to also be part of the online notice requirements provided in the bill:

- A county or a municipal rezoning or change of land use ordinance or resolution;
- A public hearing on a petition for the establishment of a community development district; and
- A determination of millage by a taxing authority, if an increase in ad valorem tax rates will affect only a portion of the jurisdiction of the taxing authority.

The bill authorizes, rather than requires as under current law, the Chief Financial Officer (CFO) to advertise the availability of the governmental efficiency hotline in newspapers of general circulation in this state and to post notices in conspicuous places in state agency offices, city halls, county courthouses, and places where there is exposure to significant numbers of the general public, including, but not limited to, local convenience stores, shopping malls, shopping centers, gasoline stations, or restaurants.

The bill amends requirements relating to notices of the sale of public bonds by the Division of Bond Finance within the State Board of Administration. It removes the requirement that the notice must be published at least 10 days prior to the date of sale in one or more newspapers or financial journals published within or without the state and instead requires a notice of the sale of public bonds be provided at such time and shall contain such terms as the Board of the Division of Bond Finance deems advisable and proper under the circumstances.

The bill deletes the requirement that a legal notice be published in Leon County for the revocation, suspension, annulment, or withdrawal of an agency licensee pursuant to the Administrative Procedure Act, for an applicant who cannot be contacted by personal service or certified mail and whose address is in another state or foreign territory or country.

The bill deletes the requirement that a public notice be published in Leon County for actions to validate bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation. Such notice would still be required to be published in two newspapers of general circulation in the state.

The bill deletes the requirement that the Board of Trustees of the Internal Improvement Trust Fund provide notice of publication in Leon County and in a similar newspaper for a similar period of time and for the last publication to be in both newspapers, for the placement on the market of an oil or gas lease located on any area, tract, or parcel of land owned, controlled, or managed, by any state board, department, or agency. Such notice would still be required to be made not less than once a week for 4 consecutive weeks in a newspaper of general circulation in the vicinity of the lands offered to be leased.

The bill deletes the requirement that a legal notice be published in Leon County for an administrative complaint regarding actions to validate bonding obligations used to fund the

Florida Building and Facilities Act (FBFA) and The Florida Environmental Land and Water Management Act of 1972 (FELWMA). The FBFA notice would still be required to be published in two newspapers of general circulation in the state, and the FELWMA notice would still be required to be published in newspapers of general circulation in the county where the critical state concern is located.

The bill deletes the requirement for the Department of Business and Professional Regulation (DBPR) to publish a short plain notice once a week for 4 consecutive weeks in a newspaper published in Leon County, Florida, when contact cannot be made by personal service or certified mail for an administrative complaint regarding the validation of disciplinary actions against certified public accountants licensed in other states and authorized to provide accounting services in Florida. The bill also deletes the requirement that the newspaper meet the requirements prescribed by law for such purposes.

The bill makes the following changes to DBPR notice provisions that are initiated when contact cannot be made by DBPR regarding an administrative complaint for failure of a DBPR licensee to notify DBPR of a change of address:

- Deletes the requirement to publish such notice once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address of record;
- Deletes the authorization to publish the administrative complaint in a newspaper of general circulation in the county, if a newspaper is not published in the county;
- Deletes the authorization to publish the administrative complaint in Leon County pursuant to licensing revocation notice procedures in the Administrative Procedure Act, if the licensee's last known address is located in another state or in a foreign jurisdiction;
- Requires the notice to be posted on the front page of DBPR's website; and
- Requires DBPR to send notice via e-mail to all newspapers of general circulation and all news departments of broadcast network affiliates in the county of the licensee's last known address of record.

The bill deletes the requirement for the Department of Agriculture and Consumer Services (DACS) to publish referendum results of a Florida Propane Gas Education, Safety, and Research Act marketing order and any referendum conducted under the Florida Agricultural Commodities Marketing Law, in a newspaper of general circulation in the state and in such other newspapers as DACS prescribes. The bill requires DACS to publish such referendum results on the front page of its website and to send notice via e-mail to all publications of general circulation and all news departments of broadcast network affiliates located within the state.

The bill deletes the requirement for DACS to publish a notice of the issuance, suspension, amendment, or termination of a marketing order in a newspaper of general circulation in the state and in such other newspaper or newspapers prescribed by DACS. The bill deletes the requirement for such notices to be sent by DACS to the newspaper or newspapers by first-class mail and also deletes the requirement that DACS include instructions for the newspaper to publish the notice as a legal advertisement the first date after receipt of the notice as such newspaper's policy for publishing legal advertisements provides. As such, DACS would still be required to post such notice on the public bulletin board maintained by DACS in the Division of Marketing and Development in the Nathan Mayo Building, Tallahassee, Leon County, however,

a copy of the notice will be required to be posted on DACS's website the same day the notice is posted on the bulletin board.

The bill provides that the Department of Financial Services may require the Florida Insurance Guaranty Association to notify insureds of an insolvent insurer and any other interested parties of a determination of insolvency and of their rights, by e-mail or telephone, instead of by publication in a newspaper of general circulation, if sufficient notification by mail is not available.

HB 941 – Commercial Lines Insurance Policies: Chapter Law 2012-213, LOF; effective July 1, 2012; by Representatives Holder and Bernard.

The bill provides that upon the expiration of the term of a commercial lines insurance policy, the insurer may transfer the policy to another authorized insurer that is a member of the same group or owned by the same holding company. This type of transfer would be treated as a renewal of the policy, rather than a cancellation or nonrenewal. The insurer is required to provide at least 45 days' notice of its intent to transfer, along with the financial rating of the insurer to which the policy is being transferred. The notice may be provided in the notice of renewal premium.

The bill creates a streamlined exemption process for construction and non-construction corporate officers and members of a limited liability company (LLC) by requiring both to elect to be exempt (opt-out) from consideration as an employee for workers' compensation purposes. Presently, under ch. 440, F.S., Florida employers are required to maintain workers' compensation coverage for "employees." In the construction industry, corporate officers and members of a LLC who are at least 10 percent owners of the corporation or LLC may elect to be exempt (opt-out). In contrast, full-time sole proprietors or partners not engaged in the construction industry may include themselves in the definition of "employee" by mailing a notice of election (opt-in) as provided in section 440.05(2), F.S. There is no ownership requirement for non-construction industry exemptions. If no notice is made, the sole proprietor or partner engaged in a non-construction business is not considered an employee and is not eligible for workers' compensation benefits. Current law also provides that full-time members of a non-construction LLC are not currently afforded such an opt-in provision.

The bill removes the requirement for workers' compensation insurers to refund excess profits to businesses they insure in the form of cash or credit, as determined by the Office of Insurance Regulation (OIR). Under current law, an excess profit is triggered when an insurer's underwriting gain is greater than the anticipated profit, plus 5 percent, for the 3 most recent calendar years.

The bill eliminates the mandatory onsite premium audits of policyholders if a workers' compensation insurer meets certain financial requirements. This change will provide insurers with flexibility to implement risk-based audits.

The bill authorizes the Office of Insurance Regulation to expend funds within existing resources for professional development of its employees.

HB 959 – State and Local Government Relations with Cuba or Syria: Chapter Law 2012-196, LOF; effective July 1, 2012; by Representative Bileca and others.

The bill prohibits the SBA from serving as a fiduciary with respect to voting on a proxy resolution that advocates for expanded United States trade with Cuba or Syria. In addition, the SBA cannot vote in favor of a proxy that would expand United States trade with Cuba or Syria. The bill requires the SBA to report on its activities in its Annual Proxy Voting Report.

The bill creates a prohibition against contracting with companies that have business operations in Cuba or Syria. It prohibits a company with business operations in Cuba or Syria from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of $1 million or more.

The bill requires that any contract with an agency or local governmental entity for goods or services of $1 million or more, entered into or renewed on or after July 1, 2012, contain a provision that allows for the termination of the contract, at the option of the awarding body, if the company is found to have submitted a false certification or is found to have business operations in Cuba or Syria.

The bill allows an agency or local governmental entity to make a case-by-case exception to the prohibition of contracting with a company which has business operations in Cuba or Syria if all of the following conditions are met:

- The business operations were made before July 1, 2012;
- The business operations have not been expanded or renewed after July 1, 2012;
- The agency or local government entity determines that it is in the best interest of the state or local community to contract with the company; and
- The company has adopted, has publicized, and is implementing a formal plan to cease business operations and to refrain from engaging in any new business operations.

An agency or local governmental entity must require a company that submits a bid or proposal for, or that otherwise proposes to enter into or renew, a contract with the agency or local governmental entity for goods or services of $1 million or more to certify that the company is not engaged in business operations in Cuba or Syria. The certification must be submitted at the time a bid or proposal is submitted or before a contract is executed or renewed.

Within 30 days after the effective date of the bill, DMS must submit a written notice apprising the Attorney General of the United States of the inclusion of companies with business operations in Cuba or Syria within the provisions of s. 287.135, F.S.

HB 1011 – Warranty Associations: Chapter Law 2012-77, LOF; effective July 1, 2012; by Representatives Abruzzo and Kiar.

The bill provides criteria for motor vehicle service agreement companies to effectuate refunds through the issuing salesperson or agent. The bill deletes the provision excluding service agreements sold to persons other than consumers that cover motor vehicles used for commercial purposes. Therefore, motor vehicle service agreement coverage for commercial vehicles having a gross weight rating of less than 10,000 pounds will be required to be offered through a regulated company and vehicles over 10,000 pounds will continue to not be covered.

Under the bill if a motor vehicle service agreement company effectuates refunds through the issuing salesperson or agent, the company must send to the salesperson or agent effectuating the refund the unearned pro rata premium refund due, less any unearned pro rata commission. The salesperson or agent must then refund the unearned pro rata premium including any unearned pro rata commission and the sales tax to the service agreement holder. The bill requires the salesperson, agent, or company to maintain a copy of certain specified documents demonstrating the occurrence of the refund to the service agreement holder. The salesperson or agent effectuating the refund shall provide a copy of the required documentation to the company within 45 days after a request is made by the Department of Financial Services (DFS) or the Office of Insurance Regulation (OIR). If OIR finds that a salesperson or agent exhibits a pattern or practice of failing to properly effectuate refunds owed or to maintain and remit to the service agreement company the required documentation, OIR shall notify DFS.

The bill authorizes home and service warranty associations to effectuate refunds through the issuing sales representative. The bill provides that refunds for service warranties may be made by cash, check, store credit, gift card, or other similar means. The bill provides that upon the request of the service warranty holder, the refund must be remitted by check.

The bill provides that OIR is not required to conduct periodic examinations of motor vehicle service agreement companies, home warranty associations, or service warranty associations but may at OIR's discretion. An examination may only cover a period of the most recent 5 years. The bill provides that the costs of an examination conducted by an independent examiner is limited to no more than 10 percent of the companies' prior year reported net income. The bill maintains that if OIR examines a service warranty association that has less than $20,000 in gross written premiums, the examination fee may not exceed 5 percent of the gross written premiums of the association.

Additionally, the bill creates new provisions that allow a governmental unit, public agency, institution, person, firm, or legal entity to provide money to DFS to enable DFS to pursue unauthorized entities operating in violation of provisions relating to warranty associations. DFS may transfer the funds to OIR to pursue unauthorized entities. The bill requires all donations to DFS be deposited into the Insurance Regulatory Trust Fund (fund) and separately accounted for. The bill allows money deposited into the fund to be appropriated by the Legislature pursuant to ch. 216, F.S., for the purpose of enabling DFS or OIR to pursue unauthorized warranty entities. The bill provides that any balance of moneys deposited into the fund for the purpose of pursuing

unauthorized warranty entities and remaining at the end of any fiscal year shall be available for carrying out the duties of DFS or OIR.

HB 1101 – Insurance: Chapter Law 2012-151, LOF; effective July 1, 2012; by Representative Horner.

The bill provides criteria for motor vehicle service agreement companies to effectuate refunds through the issuing salesperson or agent. The bill deletes the provision excluding service agreements sold to persons other than consumers that cover motor vehicles used for commercial purposes. Therefore, motor vehicle service agreement coverage for commercial vehicles having a gross weight rating of less than 10,000 pounds will be required to be offered through a regulated company and vehicles over 10,000 pounds will continue to not be covered.

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The bill makes a fifth type of property insurance claim not eligible for the mediation program. Property insurance claims based on losses due to hurricanes or windstorms that are filed outside the three year statute of limitations period provided in s. 627.70132, F.S., are not eligible for the mediation program. The bill limits who can request mediation to policyholders, as first-party claimants, and insurers and makes conforming changes. First-party claimants are those in a direct contractual relationship with their insurance company. Limiting mediation to policyholders and insurers prevents other persons, such as vendors and contractors, who are involved in a claim and are assigned benefits of the claim by the policyholder from requesting mediation of the claim.

Section 631.271, F.S., prioritizes payment of claims from an insolvent insurer's estate into ten classes (Classes 1-10). The bill makes payment of interest on allowed claims Class 10 claims and moves the current Class 10 claims to Class 11 claims. Accordingly, if there are funds available in the insolvent insurer's estate after claims in Classes 1-9 are paid, then interest on the allowed claims will be paid, and the payment of claims of shareholders or other owners of the insolvent insurer will be paid last.

HB 1127 – Citizens Property Insurance Corporation: Chapter Law 2012-80, LOF; effective July 1, 2012; by Representatives Albritton and Weinstein.

The bill reduces the Citizens Property Insurance Corporation (Citizens) regular assessment from 6 percent per account to 2 percent for deficits in the Coastal Account and eliminates the regular assessment in the Personal Lines Account (PLA) and the Commercial Lines Account (CLA). The reduction of the regular assessment in the Coastal Account and its elimination for deficits in the PLA and CLA will not reduce the overall assessment authority of Citizens. Instead, greater levies will be imposed through emergency assessments, which are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice) in the state, including Citizens' own policies.

The bill also makes revisions designed to assist Citizens in the promulgation and collection of assessments. Citizens is authorized to levy the policyholder surcharge, a regular assessment for the Coastal Account, and emergency assessments upon a determination by the Citizens Board of Directors that a Citizens account has a projected deficit. The Office of Insurance Regulation (OIR) is authorized to assist Citizens to collect assessments in any way that OIR deems appropriate. Assessable insurers and the Florida Surplus Lines Service Office (FSLSO) must begin collecting and paying the emergency assessments within 90 days after Citizens levies such assessments. Limited apportionment companies must also begin collecting regular assessments within 90 days of their levy by Citizens. However, the bill expands the time limited apportionment companies have to pay regular assessments in full from 12 months to 15 months after Citizens levies the assessment.

HB 1205 – Drug-Free Workplace Act: Chapter Law 2012-8, LOF; effective July 1, 2012; by Representative Smith.

This bill amends drug-free workplace provisions in s. 112.0455, F.S., concerning state agency employees and s. 440.102, F.S., concerning employers and employees covered under the Workers' Compensation Law. It authorizes state agencies to conduct random drug testing on all employees every three months. Employees to be tested must be chosen via a computer-generated random sampling by an independent third party, and each sample may not constitute more than ten percent of the total employee population. Agencies may also administer drug tests to all job applicants. Drug testing must be conducted within each agency's appropriation.

The bill also revises provisions related to discipline and management of state agency employees with positive drug tests. An agency may discipline or terminate the employment of any employee who receives a first-time positive drug test. If the employee is not discharged, the employer may refer him or her to an employee assistance program or alcohol and drug rehabilitation program, in which he or she may participate at personal expense or at the expense of a health insurance plan. The employer must determine whether the employee is able to safely and effectively perform assigned job duties while participating in such programs, and if the employee is deemed unable to do so, he or she must be placed in a job assignment which can be performed during that time or placed on leave status. Certain employees, such as those who carry firearms or work with children, are automatically considered to be unable to perform their duties while participating in employee assistance programs or alcohol and drug rehabilitation programs.

In provisions relating to employees and employers covered by the Workers' Compensation Law, the bill replaces references to "safety-sensitive" positions with "mandatory-testing" positions and provides a definition for "mandatory-testing." The bill states that employers who maintain drug-free workplace programs which exceed statutory standards are still entitled to receive insurance discounts. The requirement that random drug testing provisions must be specified in collective bargaining agreements before such testing is implemented is deleted.

The bill also provides for the drug testing of all Department of Corrections job applicants and for random testing of corrections employees in mandatory-testing positions.

HB 1261 – State Employment: Chapter Law 2012-215, LOF; effective July 1, 2012; by Representative Mayfield.

The bill makes numerous changes to the state employment statutes contained in ch. 110, F.S.

Specifically, the bill:

- Revises requirements for fingerprinting conducted as part of a background screening.
- Removes the annual hourly cap for other-personal-services employees and revises related agency reporting requirements.

- Restructures the administrative annual leave cap for certain disabled veterans from six days to 48 hours.
- Revises the process for implementation of furloughs.
- Revises provisions related to telework.
- Requires employees to designate a charity when donating to the Florida State Employees' Charitable Campaign.
- Limits a career service employee's probationary period to no more than 18 months.
- Clarifies provisions related to employees who have been promoted and are in probationary status.
- Adds Department of Financial Services' responsibility for providing an alternative retirement income security program for eligible temporary and seasonal employees of the state who are compensated from appropriations for other personal services. DFS may adopt rules necessary to administer this requirement.

HB 1277 – Money Services Businesses/Workers' Compensation Fraud: Chapter Law 2012-85, LOF; effective July 1, 2012; by Representative Davis.

The bill eliminates the requirement that OFR provide a 15-day advance notice to money services business licensees prior to conducting an examination or investigation. This change reduces the opportunity for hiding, destroying, or otherwise tampering with records and materials which may be pertinent to OFR's examination or investigation. While retaining the requirement that each licensee be examined at least once every 5 years, the bill eliminates the requirement that OFR conduct an examination of a business within 6 months of the business becoming licensed. This will provide greater flexibility to OFR by permitting use of its resources in a more targeted manner. Both changes reduce the predictability of when a business may be examined.

The bill requires that a check cashing business deposit payment instruments into its own commercial account at a federally insured financial institution and deletes the authorization to sell payment instruments within 5 business days after acceptance. Audit trails and tracking of moneys are facilitated by requiring that the deposit of all payment instruments be made into the business's own account. Maintaining such an account is a prerequisite for continued operation. A licensee is required to notify OFR within 5 business days after it ceases to maintain a commercial depository account in its own name and, before resuming check cashing, must reestablish such an account and notify OFR that the account exists.

The bill authorizes disciplinary action and provides for penalties should a check casher fail to maintain a depository account in its own name, or fail to deposit all payment instruments into its own account. Possible disciplinary actions include denial, revocation, or suspension of a license. In addition, it provides a definition for "fraudulent identification paraphernalia" and specifies that that possession and use of fraudulent identification paraphernalia is a prohibited act punishable as a felony of the third degree.

The bill stipulates that a check casher may only accept or cash a payment instrument from a person who is the original payee or a conductor who is an authorized officer of the corporate

payee named on the instrument's face. Acceptance and cashing of third-party checks is no longer authorized.

The bill codifies the $5 fee, currently established by rule, which is linked to the direct cost of verifying such things as a customer's identity or employment.

HB 1299 – North Lake County Hospital District, Lake County: Chapter Law 2012-258, LOF; effective April 27, 2012; by Representative Metz and others.

The bill provides for the codification of all special acts relating to the North Lake County Hospital District. It is the stated intent of the Legislature in enacting this law to provide a single, comprehensive special act charter. The following is included in the legislation pertaining specifically to the Department of Financial Services.

Sovereign Immunity
For purposes of sovereign immunity pursuant to s. 768.28(2), F.S., the bill provides that any primary care clinic physically located in the district, the main purpose of which is to provide indigent care and which directly delivers that care for compensation from the district, and any health care provider who volunteers his or her services to the primary care clinics to provide indigent care without receiving personal financial compensation, is conclusively deemed to be primarily acting as an instrumentality of the state. This language, in effect, appears to provide an exemption to s. 766.1115, F.S., the "Access to Health Care Act," which provides sovereign immunity for volunteer, uncompensated services of a health care professional where the health care provider receives no compensation from a governmental contractor.

HB 1305 – Public Records/Officers-Elect: Chapter 12-25, LOF; effective July 1, 2012; by Representative Adkins and others.

The bill declares that it is the policy of the state that the Public Records Act (Act) applies to officers-elect upon their election to public office. The term "officer-elect" only applies to the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.

The bill requires officers-elect to adopt and implement reasonable measures to ensure compliance with the obligations set forth in the Act. It also requires an officer-elect to maintain his or her public records in accordance with the policies and procedures of the public office to which the officer has been elected.

As part of the transition process, if an officer-elect creates or uses an online or electronic communication or recordkeeping system, all public records maintained on such system must be preserved so as not to impair the ability of the public to inspect or copy such records.
Upon taking the oath of office, the officer-elect must deliver to the person responsible for records in such public office all public records kept or received in the transaction of official business during the period following election to public office.

Finally, the bill provides that a meeting with or attended by any person elected to a specific board or commission who has not yet taken office, during which official acts are to be taken, is deemed a public meeting. Reasonable notice of such meeting must be provided.

HB 1417 – State Investments: Chapter Law 2012-112, LOF; effective July 1, 2012; by Representative Oliva.

The bill authorizes the SBA to invest up to 20 percent of any fund in alternative investments, up from the current 10 percent.

SB 1964 – Court-Related Assessments: Chapter Law 2012-124, LOF; effective July 1, 2012; by Senate Budget.

This bill makes the following changes:

- Provides that a monetary assessment mandated by law shall be imposed and included in the judgment without regard to whether the assessment is announced in open court.
- Requires the clerks of court to develop a uniform form for the identification and imposition of all assessments mandated by statutes, rather than the Department of Financial Services.
- Refines the definition of assessment data elements collected by the clerks of court.

SB 1986 – Water Management Districts: Chapter Law 2012-126, LOF; effective July 1, 2012, except as otherwise provided; by Senate Budget.

Included in provisions of this bill specific to the Department of Financial Services (DFS) is that each district shall provide monthly financial statements in the form and manner prescribed by DFS to the district's governing board.

HB 4061 – Repeal of Uniform Home Grading Scale: Chapter Law 2012-92, LOF; effective July 1, 2012; by Representative Bernard.

Current law does not require use of the home grading scale in real estate transactions.

The only other use of the home grading scale in Florida law was repealed during the 2011 Session. Section 627.0629(1)(b), F.S., which was repealed in 2011, required OIR to develop a method for correlating the numerical rating of a home issued pursuant to the uniform home grading scale with mitigation discount amounts and required the Financial Services Commission to adopt rules requiring property insurers to make a rate filing to correlate mitigation discounts to the home grading scale.

The bill repeals the statutory authority for the home grading scale. There is nothing in current law requiring use of the scale.

The bill also makes a conforming change to s. 215.5586, F.S., relating to the My Safe Florida Home Program. Because the bill repeals the uniform home grading scale, the reference to the scale in the My Safe Florida Home Program statute is obsolete and is repealed by the bill.

HB 4139 – Repeal of Health Insurance Provisions: Chapter Law 2012-93, LOF; effective July 1, 2012; by Representative Brodeur.

The bill repeals a reporting requirement associated with the Florida Health Insurance Plan (Plan). In 2004, the Legislature created the Plan as part of the Affordable Health Care for Floridians Act. The Plan was intended to replace the Florida Comprehensive Health Association as the State's high risk insurance pool. The law contains an annual reporting requirement for the Plan. To date, funds have not been appropriated for startup costs and any projected deficits. The Plan has not been implemented.

The bill removes the requirement that the Board of Directors of the Plan submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the operation of the Plan, including certain specified actuarial information.

The bill repeals a reporting requirement associated with the Small Employers Access Program (Program). In 2004, as part of the Affordable Health Care for Floridians Act, the Program was created within the Employee Health Care Access Act, which had been enacted in 1992. The purpose of the Program was to provide additional health insurance options for small businesses consisting of up to 25 employees, plus any municipality, county, school district, or hospital employer located in a rural community, and any nursing home employer. The enacting legislation requires a competitive bid process to select an insurer to provide coverage through the Program within an established geographical area. No responses were received to the Request for Proposals. The Program is not operational.

The bill removes the requirement that the Office of Insurance Regulation submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the activities of the Small Employers Access Program, including premiums earned and written, losses realized, administrative expenses, and actual program enrollment.

~~**HB 5011 – State Information Technology:** Chapter Law 2012-___, LOF; effective July 1, 2012; by House Appropriations Committee.~~ – ***Vetoed 4/20/12***

~~This bill provides for the following:~~

- ~~Creates the Agency for State Technology within the Executive Office of the Governor under the Governor and Cabinet.~~
- ~~Eliminates the Agency for Enterprise Technology and transfers all resources and records to the newly created Agency for State Technology.~~

- ~~Transfers the management oversight responsibility of the Northwood and Southwood Shared Resource Centers from a board of trustees to the Agency for State Technology.~~
- ~~Repeals email as a state enterprise activity.~~
- ~~Appropriates 16 positions and $1,847,866 in General Revenue to operate the newly created Agency for State Technology.~~

HB 5201 – Postsecondary Education Funding: Chapter Law 2012-134, LOF; effective July 1, 2012, except as otherwise provided; by House Higher Education Appropriations Subcommittee.

This bill includes the following provision specific to the Department of Financial Services (DFS):

- Upon request by the Department of Education (DOE), DFS is to provide a sample of endorsed warrants to DOE to review and confirm compliance with endorsement requirements.

HB 5203 – Reemployment Services: Chapter Law 2012-135, LOF; effective July 1, 2012, except as otherwise provided; by House Higher Education Appropriations Subcommittee.

- Repeals and terminates the Workers' Compensation Administration Trust Fund within the Department of Education.
- Amends s. 440.491, F.S., as follows:
  - Removes the Department of Education from the definition of "Department", which effectively transfers responsibilities for training and education of injured workers to the Department of Financial Services;
  - Authorizes the Department of Financial Services to contract with one or more third parties to administer functions of training and education.
  - Requires that persons or firms selected to administer reemployment services may not have a conflict of interest.
  - Prohibits a rehabilitation provider who contracts with the department to provide injured employees reemployment assessments and other services from providing training or education to the injured employee.
- Appropriates $350,000 in recurring funds from the Workers' Compensation Administration Trust Fund and 5 full-time positions with an associated salary rate of $260,000 to the Department of Financial Services.

HB 5301 – Health Care Services: Chapter Law 2012-33, LOF; effective July 1, 2012, except as otherwise specifically provided; by House Health Care Appropriations Subcommittee.

The bill provides for the following:

- Removes the prohibition against subsidized Kidcare coverage for children of public employees who are eligible for state group health insurance, thereby allowing children of

public employees to enroll in subsidized Kidcare if they meet the program's eligibility requirements.

- Directs the Department of Children and Families (DCF) and the Agency for Health Care Administration (AHCA), subject to an appropriation, to develop a new system of eligibility for Medicaid and Kidcare, consistent with requirements of federal and state laws.
- Limits Medicaid payment for hospital emergency room services for non-pregnant adults to 6 visits per year.
- Changes the statutory deadline for Medicaid hospital rates to be adjusted within any fiscal year from September 30 to October 31. Allows rate reductions beyond the deadline only in cases of insufficient collections of funds voluntarily donated by local taxing authorities designed to augment hospital rates.
- Revises the timeline and parameters for AHCA to develop a plan to transfer the state's hospital payments to a diagnosis related group (DRG) system, with a target implementation date of July 1, 2013, subject to Legislative approval.
- Updates statutes relating to the disproportionate share hospital (DSH) program so the program uses the proper data to calculate the distribution of dollars. Also repeals two sections of statute for two perennially unfunded DSH programs.
- Revises the methodology for determining a county's eligible recipients for the purpose of county contributions to Medicaid and revises the methodology of collecting those funds.
    - For past due billings, a county may pay 85 percent of the amount due over the next five years. In the alternative, a county may choose to be subject to 100 percent of the past due amount but can make a claim before the Division of Administrative Hearings to have the amount reduced if the county believes the amount billed is incorrect.
    - For prospective billings, the state each month will withhold from a county's distribution of funds from the local government half-cent sales tax an amount equal to the county's required contribution to Medicaid for that month. If a county believes the state has withheld too much due to errors in the state's Medicaid eligibility system data base, the county may request a refund based on reasons submitted with the request.
    - The bill also requires AHCA and DCF to create a system for hospitals and nursing homes to assist the state in making any needed updates in the Medicaid data base for Medicaid recipients' county of residence when recipients are admitted. If updates are needed, they must be performed within 10 days of admission
- Expands statewide two Medicaid anti-fraud pilot projects relating to home health care.
- Authorizes the establishment or expansion of Programs of All-inclusive Care for the Elderly (PACE) in Manatee, Sarasota, DeSoto, and Broward counties.
- Expands statewide a pilot project for the delivery of Medicaid services for persons diagnosed with HIV/AIDS, in partnership with a university-based, research-oriented program that specializes in health care for HIV/AIDS patients.

HB 5501 – One-Stop Business Registration Portal: Chapter Law 2012-139, LOF; effective July 1, 2012; by House Government Operations Appropriations Subcommittee.

The bill provides for the following:

- Directs the Department of Revenue (DOR) to establish and implement a One-Stop Business Registration Portal, through a website, to provide individuals and businesses with a single point of entry for transacting business in the state.
- Provides that the One-Stop Business Registration Portal must provide businesses and individuals a single point-of-entry for:
  - Completing and submitting applications for various licenses, registrations or permits that are issued by state agencies or departments to do business in the state.
  - Filing of documents that must be submitted to state agencies or departments to transact business in the state.
  - Remitting of payments for the various fees that must be paid to state agencies or departments to obtain licensure, registration or a permit.
- Authorizes the DOR to competitively procure and contract for services to develop and maintain the portal, and directs the Departments of Business and Professional Regulation, Economic Opportunity, Financial Services, Lottery, Management Services and State to cooperate with the DOR in the development and implementation of the portal.

~~**HB 5505 – Department of Financial Services:** Chapter Law 2012-___, LOF; effective July 1, 2012; by House Government Operations Appropriations Subcommittee.~~ – ***Vetoed 4/20/12***

~~The bill provides for the following:~~

- ~~Allows for the electronic submission of workers' compensation exemption applications, with streamlined reporting requirements (e.g., elimination of notarization requirement and, for construction industry exemptions, the filing of copies of stock certificates).~~
  - ~~Requires additional data elements to be reported by all applicants filing electronically to include:~~
    - ~~Date of birth, Florida driver's license number or identification card number.~~
    - ~~For construction industry applicants, statement of ownership interest.~~
  - ~~Provides that exemptions issued after January 1, 2013, are valid for two years.~~
- ~~Repeals the requirement for the Department of Financial Services to prepare an annual report on the administration of the workers' compensation laws of the prior year.~~
- ~~Provides for a cost savings of nine positions and $348,289 incorporated into the Fiscal Year 2012-13 General Appropriations Act.~~
- ~~Amends the delinquent finance charge related to consumer finance loans by adjusting the current $10 annual fee based on the consumer price index.~~
- ~~Provides that revenues collected for money transmitter functions will be deposited into the Financial Institutions Regulatory Trust Fund rather than the Regulatory Trust Fund.~~

- ~~Authorizes the Governor, at his option, to direct the State Board of Administration (SBA) to create the Florida Insurance Premium Tax Pre-Payment Program in order to provide an additional funding mechanism for the Florida Hurricane Catastrophe (CAT) Fund.~~
  - ~~If the Governor approves, the SBA may sell up to $1.5 billion in tax credits that can be applied to reduce future tax liabilities. The bill limits the amount of tax credits that can be applied each year to $150 million.~~
  - ~~The SBA will loan the proceeds of the tax credit sale to the CAT Fund.~~
    - ~~Loan repayments are to be deposited in the General Revenue Fund.~~
    - ~~The loan repayment schedule is to be designed so that in each fiscal year the General Revenue Fund receives an amount equal to the tax credits being applied.~~

HB 5507 – Department of Management Services: Chapter Law 2012-141, LOF; effective July 1, 2012; by House Government Operations Appropriations Subcommittee.

The bill provides for the following:

- Eliminates the Executive Aircraft Program and transfers the cash balance of the Bureau of Aircraft Trust Fund to the General Revenue Fund.
- Removes the one-percent reimbursement limit for administration of the Florida State Employee Charitable Campaign. This allows the state to be fully reimbursed for costs to administer the program.
- Provides for the transfer of funds from the Operating Trust Fund in the Department of Management Services to the Department of Financial Services to support statewide purchasing operations.
- Extends the $3 surcharge on certain criminal offenses and noncriminal moving traffic violations to July 1, 2021. The surcharge annually provides $5.2 million to enhance the Statewide Law Enforcement Radio System.

HB 5509 – State Data Center System: Chapter Law 2012-142, LOF; effective July 1, 2012; by House Appropriations Committee.

The bill provides for the following:

- Amends the schedule for agency data center consolidations and exempts the Florida Department of Law Enforcement, Department of Lottery, Systems Design and Development in the Office of Policy and Budget, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, Florida Clerks of Court Operations Corporation, Florida Housing Finance Corporation, and the State Board of Administration from consolidation to a primary data center. The amended schedule includes DFS' Hartman, Larson and Fletcher data centers during the 2015-2016 fiscal year.
- Deletes the requirement that agencies must submit information relating to their data centers and computing facilities to the Agency for Enterprise Information Technology (AEIT).

- Deletes the requirement for the AEIT to submit a comprehensive transition plan.
- Amends the duties and responsibilities of a primary data center by requiring an inventory of contracts and agreements and requiring any resources to be requested in the Legislative Budget Request.
- Specifies that any administrative overhead costs charged must be included in a specific appropriation and any changes in rates that increase an agency charge must be approved by the Legislative Budget Commission.

HB 7055 – Administrative Authority: Chapter 12-116, LOF; effective July 1, 2012; by House Rulemaking and Regulation Subcommittee.

This bill clarifies legislative intent regarding the extent of the executive branch's administrative authority in response to the Florida Supreme Court's ruling in *Whiley v. Scott.* The bill also repeals unused rulemaking delegations to various state agencies.

Specifically, the bill:

- Makes findings clarifying the Legislature's intent that non-elected agency heads appointed by and serving at the pleasure of the Governor are subject to the direction and supervision of elected officers.
- Clarifies that the laws placing the administration of executive branch departments under the direct supervision of agency heads appointed by and serving at the pleasure of the Governor do not imply that those non-elected agency heads exercise any power independent from the Governor's direction and supervision.
- Clarifies that Administrative Procedures Act requirements for certain actions to be taken by agency heads do not establish non-elected appointees serving at the pleasure of the Governor as exercising such power or authority exempt from the Governor's direction and supervision.
- Authorizes the Office of Statutory Revision to include duplicative, redundant, or unused rulemaking authority in revisers' bill recommendations as part of the ongoing process of statutory revision.
- Repeals certain statutory provisions containing duplicative, redundant, or unused rulemaking authority.

HB 7079 – State Retirement: Chapter Law 2012-222, LOF; effective July 1, 2012; by House Governmental Oversight and Accountability Committee.

The bill makes the following conforming and clarifying changes to the Florida Retirement System:

- Clarifies that the provisions of part I of the Florida Retirement System Act are applicable to parts II and III of the Act.
- Revises definitions to make clarifying changes.
- Allows a retiring member of optional retirement programs to receive a benefit distribution of up to 10 percent of their account balance one month after termination.

- Clarifies that the existing prohibition on hardship loans does not apply to a requested distribution for retirement, a mandatory distribution authorized by the administrator, or a required minimum distribution provided pursuant to the Internal Revenue Code.
- Conforms the deferral age for participants of the Deferred Retirement Option Program initially enrolled in the FRS on or after July 1, 2011, to changes made in 2011 by Senate Bill 2100.
- Clarifies that a retiree of the FRS investment plan, or optional retirement program, who is reemployed on or after July 1, 2010, is prohibited from being reenrolled as a renewed member of a state-administered retirement system.
- Clarifies that members of the State University System Optional Retirement Program may receive payment of benefits from either annuity contracts or investment contracts, and clarifies the definition of the term "benefit."

HB 7105 – OGSR/Florida Workers' Compensation Joint Underwriting Association, Inc.: Chapter Law 2012-224, LOF; effective October 1, 2012; by House Government Operations Subcommittee.

This bill is the result of an Open Government Sunset Review of the public records and meetings exemption for certain records and meetings held by the Florida Workers' Compensation Joint Underwriting Association, Inc.

Current law provides that certain records and meetings held by the Florida Workers' Compensation Joint Underwriting Association are confidential and exempt from the public records requirements found in s. 119.07(1), F.S., and Art. I, s. 24(a), State Constitution, and from the public meetings requirements found in s. 286.011, F.S., and Art. I, s. 24(b), State Constitution. The public records and meetings exemption specifies circumstances under which the protected information may be disclosed.

This bill reenacts the exemptions and removes redundant language.

HB 7107 – OGSR/Consumer Complaints and Inquiries: Chapter Law 2012-225, LOF; effective October 1, 2012; by House Government Operations Subcommittee.

The bill is the result of an Open Government Sunset Review and saves the exemption in s. 624.23, F.S., from public records requirements for certain personal financial and health information of a consumer held by the Department of Financial Services or the Office of Insurance Regulation relating to a consumer's complaint or inquiry regarding a matter regulated under the Florida Insurance Code or s. 440.191, F.S., (Workers' Compensation Employee Assistance and Ombudsman Office). The bill retains the current law that defines "consumer" and "personal financial and health information" that is considered exempt. Under current law the personal financial and health information may be disclosed to another governmental entity when necessary to perform its duties and the National Association of Insurance Commissioners, the bill adds to this list the consumer or the consumer's legally authorized representative.

HB 7111 – OGSR/Unclaimed Property: Chapter Law 2012-227, LOF; effective May 4, 2012; by House Government Operations Subcommittee.

The bill reenacts current exemptions of public records for social security numbers and other unique identifiers for owners of unclaimed property held by the Department of Financial Services.

The bill allows for the limited release of information to registered locators and expands the exemption with regards to the release of social security numbers for locator services. Registered locators include certified public accountants licensed by the Department of Business and Professional Regulation; private investigators licensed by the Department of Agriculture and attorneys in good standing with the Florida Bar.

The bill provides for future review and repeal of the exemption pursuant to the Open Government Sunset Review Act, and provides a public necessity statement as required by the State Constitution.

DEPARTMENT OF FINANCIAL SERVICES
FY 2012-2013

		CONFERENCE REPORT			
		FTE	GR TOTAL	TF TOTAL	ALL FUNDS
1	**MAJOR REDUCTION ISSUES**				
2	REDUCTION IN THE OFFICE OF DATA QUALITY AND COLLECTIONS	(6.00)	0	(258,978)	(258,978)
3	ELIMINATE EMPLOYEE ASSISTANCE AND OMBUDSMAN PROGRAM	(4.00)	0	(204,811)	(204,811)
4	REDUCE BUREAU OF COMPLIANCE MIDDLE MANAGEMENT POSITION	(1.00)	0	(55,264)	(55,264)
5	ELIMINATE THE NOTARY REQUIREMENT FOR EXEMPTIONS	(8.00)	0	(301,816)	(301,816)
6	ELIMINATE TRANSMITTAL OF PAPER RECORDS	(6.00)	0	(206,216)	(206,216)
7	REDUCE NON-MISSION CRITICAL POSITIONS	(5.50)	0	(289,687)	(289,687)
8	REDUCE COMMUNITY OUTREACH PROGRAM POSITION(S)	(2.00)	0	(103,932)	(103,932)
9	REDUCTION OF VACANT POSITIONS DFS	(16.50)	(161,696)	(696,327)	(858,023)
10	ELIMINATE STATE FUNDING FOR IMPLEMENTATION OF THE FEDERAL 3% WITHHOLDING	(20.00)	(1,138,497)	(681,305)	(1,819,802)
11	ELIMINATE STATE FUNDING FOR THE WORKERS' COMPENSATION ANNUAL REPORT	(1.00)	0	(46,473)	(46,473)
12					
13	**MAJOR FUND SHIFTS**				
14	FUND SHIFT PAF FROM GENERAL REVENUE TO INSURANCE REGULATORY TRUST FUND - DEDUCT		(487,272)	0	(487,272)
15	FUND SHIFT PAF FROM GENERAL REVENUE TO INSURANCE REGULATORY TRUST FUND - ADD		0	487,272	487,272
16					
17	**MAJOR NEW ISSUES**				
18	ADDITIONAL CONTRACTED SERVICES AUTHORITY FOR BANKING FEES		200,000	0	200,000
19	RESTORE POSITIONS IN STATE FINANCIAL INFORMATION AND STATE AGENCY ACCOIUNTING & IT FLAIR	14.00	0	1,094,902	1,094,902
20	~~TRANSPARENCY SUPPORT AND MAINTENANCE - DIVISION OF INFORMATION SYSTEMS~~	~~4.00~~	~~0~~	~~1,411,334~~	~~1,411,334~~
21	FLAIR SUCCESSION PLAN - OVERLAP STAFF TO MAINTAIN FLAIR PROFICIENCY	7.00	323,930	0	323,930
22	CREATE NEW PERSONAL INJURY PROTECTION (PIP) FRAUD UNIT	4.00	0	518,898	518,898

23	WORKERS' COMPENSATION INTERNAL SELF-SUFICIENCY INITIATIVE	7.00	0	689,843	689,843
24	FLAIR REPLACEMENT - INDEPENDENT BUSINESS CASE STUDY		0	1,500,000	1,500,000
25	STAFF AUGMENTATION FOR AIMS FRO FDLE TO FINANCIAL SERVICES		0	385,000	385,000
26	UTILIZATION OF FORFEITURE FUNDS BY INSURANCE FRAUD		0	50,000	50,000
27	REDUCE SALARY LAPSE AND VACANCY RATE IN THE DIVISION OF STATE ACCOUNTING AND AUDITING AND FLAIR - IT		260,000	0	260,000
28	MAINTENANCE AND REPAIR		0	0	0
29	Fire College HVAC		0	470,252	470,252
30	Seal Lab attic		0	145,795	145,795
31					
32					
33	**TRUST FUND SWEEP**				
34	INSURANCE REGULATORY			5,600,000	5,600,000
35					
36	**BUDGET ENTITY REDUCTION DETAIL**				
37	Executive Direction & Support Services	(4.50)		113,498	113,498
38	Legal Services			(346,844)	(346,844)
39	Information Technology	5.00		2,677,838	2,677,838
40	Consumer Advocate			90,000	90,000
41	IT - FLAIR	4.00	(414,386)	1,959,219	1,544,833
42	Treasury	(1.00)		(45,000)	(45,000)
43	Accounting and Auditing	(4.00)	(101,877)	(93,468)	(195,345)
44	Unclaimed Property			185,000	185,000
45	Fire Marshal - Compliance & Enforcement			52,494	52,494
46	Fire Marshal - Fire & Arson			(479,061)	(479,061)
47	Fire Marshal - Professional Training			271,262	271,262
48	Fire Marshal - Administrative	(1.00)		106,795	106,795
49	Risk Management	1.00		(27,870)	(27,870)
50	Rehabilitation & Liquidation			12,064	12,064
51	Agency & Agency Services	(7.00)		(734,148)	(734,148)
52	Insurance Fraud	4.00		296,833	296,833
53	Consumer Assistance	(7.50)		(927,109)	(927,109)
54	Funeral & Cemetary			(52,000)	(52,000)
55	Public Assistance Fraud		(487,272)	(136,003)	(623,275)
56	Workers' Compensation	(20.00)		(1,582,185)	(1,582,185)
57	**TOTAL REDUCTIONS**	**(31.00)**	**(1,003,535)**	**1,341,315**	**337,780**

For additional information concerning budget issues, please contact the Budget Office at 413-2100.