2016 Legislative Summary

Florida Department of Financial Services

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State of Florida

INTRODUCTION

This document is an overview of legislation passed by the Florida Legislature during the 2016 Regular Legislative Session affecting the Department of Financial Services and the Financial Services Commission.

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 80 – Family Trust Companies

Effective March 10, 2016; Chapter 2016-35, L.O.F.; by Senators Richter and Soto (HB 17 by Representative Roberson)
Affected Division(s): Office of Financial Regulation

This bill amends ch. 662, F.S., the Florida Family Trust Company Act, to:

- Require all family trust companies in operation on October 1, 2016, to either apply for licensure as a licensed family trust company, register as a family trust company, register as a foreign licensed family trust company, or cease doing business in this state by December 30, 2016.
- Provide that a family trust company registration application must state that trust operations will comply with statutory provisions relating to requirements in organizational documents and relating to minimum capital requirements;
- Require that a registration application for a foreign licensed family trust company must provide proof that the company is in compliance with the family trust company laws and regulations of its principal jurisdiction;
- Require amendments to certificates of formation or certificates of organization to be submitted to the Office of Financial Regulation (OFR) at least 30 days before it is filed or effective;
- Allow family trust companies, licensed family trust companies, and foreign licensed family trust companies to file annual renewal applications within 45 days of the end of each calendar year;
- Create a mechanism for automatic reinstatement of lapsed licenses and registrations by payment of appropriate fees and any fines imposed by the OFR;
- Provide that the OFR must conduct an examination of a licensed family trust company every 36 months instead of the current 18 months. The bill does not allow an audit to substitute for an examination conducted by the OFR;
- Remove the requirement that the OFR conduct examinations of unlicensed family trust companies;
- Require that a court determine there has been a breach of fiduciary duty or trust before the OFR may enter a cease and desist order;
- Require the management of a licensed family trust company to have at least three directors or managers and require that at least one of those directors or managers be a Florida resident;
- Provide that the designated relatives in a licensed family trust company may not have a common ancestor within three generations instead of the current five generations; and
- Make legislative findings that clarify that the OFR is responsible for the regulation, supervision, and examinations of licensed family trust companies but that for unlicensed or foreign family trust companies the role of the OFR is limited to ensuring that services provided by such companies are provided only to family members and not to the general public.

SB 86 – Scrutinized Companies

Effective March 10, 2016; Chapter 2016-36, L.O.F.; by Appropriations Committee; Governmental Oversight and Accountability Committee; and Senators Negron, Gaetz, Braynon, Margolis, Soto, Abruzzo, Sobel, Flores, Sachs, Benacquisto, Hays, Gardiner, Altman, Bean, Bradley, Brandes, Bullard, Clemens, Dean, Detert, Diaz de la Portilla, Evers, Galvano, Garcia, Gibson, Grimsley, Hutson, Joyner, Latvala, Lee, Montford, Richter, Simmons, Simpson, Smith, Stargel, Thompson and Hukill (HB 527 by Representatives Workman, Moskowitz, Rader, Adkins, Atriles, Boyd, Broxson, Costello, Diaz (J), Edwards, Geller, Hager, Hill, Kerner, Mayfield, Metz, Passidomo, Pilon, Plakon, Porter, Powell, Raburn, Renner, Richardson, Rodrigues (R), Rooney, Santiago, Slosberg, Stark, Watson (C) and Wood
Affected Division(s): Cabinet Affairs

The bill requires the State Board of Administration (SBA) to identify and assemble a list of all companies that boycott Israel. The bill requires the SBA to update and make publicly available on a quarterly basis a Scrutinized Companies that Boycott Israel List (List). The List must be distributed to the trustees of the SBA, the President of the Florida Senate and the Speaker of the Florida House of Representatives.

The SBA must provide written notice to the companies that may be placed on the List and give those companies an opportunity to respond prior to the company becoming subject to investment prohibition and placement on the List.

In terms of its investment responsibilities relating to the Florida Retirement System (FRS) pension plan, the SBA is not permitted to acquire securities, as direct holdings, of companies that appear on the List. The bill provides an exception for securities that are not subject to this prohibition. The bill requires the investment policy statement for the FRS pension plan to be updated to include the limitations set forth in this bill.

The bill limits governmental entities from contracting with scrutinized companies on the List. Specifically, the bill prohibits a state agency or local governmental entity from contracting for goods and services of $1 million or more with a company that has been placed on the List. In addition, the bill requires certain governmental contracts to contain provisions allowing the awarding body to terminate the contract if a company is placed on the List. Additionally, the bill requires certification by a company that the company is not participating in a boycott of Israel upon submission of bid or renewal of existing contract. A case-by-case exception is provided to state agencies and local governmental entities for contracting with companies on the List under specified circumstances.

HB 103 – Transactions in Fresh Produce Markets

Effective July 1, 2016; Chapter 2016-51, L.O.F.; by Health and Human Services Committee; and Representatives Fullwood, Campbell, Murphy, Stafford and Torres (SB 284 by Senator Thompson)
Affected Division(s): Public Assistance Fraud

The bill defines "SNAP" as the federal Supplemental Nutrition Assistance Program. It permits the owner or operator of a market that sells fresh produce, but who is not an authorized SNAP retailer with an Electronic Benefits Transfer (EBT) system to allow certain specified groups, which may not be a competitor market, to implement and operate an EBT system in the market on behalf of the produce sellers. It requires the market owner or operator to reasonably accommodate the authorized third party in the implementation and operation of an EBT system in order to accept SNAP benefits. SNAP benefits may only be used for the purchase of fresh produce or other fresh food on a dollar-for-dollar basis and may not be traded for tokens or other means of trade for non-produce items.

The bill does not apply to a market selling fresh produce whose owner or operator has a system in place for accepting SNAP benefits nor does it prohibit an authorized Food and Nutrition Service produce seller from operating its own EBT system for its customers' transactions. Finally, the bill does not require a market owner or operator to create, operate, or maintain an EBT system on behalf of its produce sellers.

HB 145 – Financial Transactions

Effective July 1, 2016; Chapter 2016-53, L.O.F.; by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representatives McGhee and Campbell (SB 260 by Banking and Insurance Committee; Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senators Smith and Richter)
Affected Division(s): Office of Financial Regulation

Cancellation of Mortgages
This bill reduces the period for cancellation of a mortgage from 60 days to 45 days after full payment of the amount due under a promissory note secured by a mortgage. The bill provides an additional requirement for cancelling open-end mortgages, requiring written notice from the borrower that he or she intends to close the mortgage. The provisions on mortgage cancellation do not apply to an open-end mortgage existing before July 1, 2016, if the loan agreement included procedures for cancelling the mortgage.

Consumer Finance Loans
Under current law, the Florida Consumer Finance Act, administered by the Office of Financial Regulation, prohibits and imposes disciplinary action on any person who compensates another person for referring a loan applicant to a licensed consumer finance lender. This bill provides an exception to the prohibition, in instances in which an amount is not charged directly or indirectly to the borrower.

Convenience Fees on Credit Cards
Current law authorizes certain private colleges to impose a convenience fee on credit card payments made to the school for tuition, fees, and other student expenses. This bill extends the authority to charge a convenience fee to private schools offering K-12 education.

SB 180 – Trade Secrets

Effective October 1, 2016; Chapter 2016-5, L.O.F.; by Commerce and Tourism Committee and Senator Richter (HB 55 by Criminal Justice Subcommittee and Representative Pilon)
Affected Division(s): Legal

The bill expands the definition of the term "trade secret," as provided in s. 812.081, F.S., to expressly include financial information.

An individual who steals, copies without authorization, or misappropriates financial information which meets the criteria of a trade secret is guilty of a third degree felony under s. 812.081, F.S.

SB 182 – Public Records and Meetings/Trade Secrets

Effective October 1, 2016; Chapter 2016-6, L.O.F.; by Governmental Oversight and Accountability Committee; Commerce and Tourism Committee; and Senator Richter (HB 57 by Criminal Justice Subcommittee and Representative Pilon)
Affected Division(s): Legal

The bill reenacts several public records exemptions of trade secret information to conform to the s. 812.081, F.S., definition of "trade secret," which was amended by SB 180, Enrolled, to expressly include financial information. These exemptions protect financial information deemed to be trade secrets from public disclosure.

The bill provides that the public record exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a public necessity statement as required by the Florida Constitution.

HB 183 – Administrative Procedures

Effective July 1, 2016; Chapter 2016-116, L.O.F.; by State Affairs Committee; Government Operations Appropriations Subcommittee; Rulemaking Oversight and Repeal Subcommittee; and Representative Adkins (SB 372 by Appropriations Committee; Judiciary Committee; and Senator Lee)
Affected Division(s): Legal
Implementation: Various Rule Notifications Required

This bill revises the Administrative Procedure Act (APA), which governs agency rulemaking and decision making. The most significant changes to the APA by the bill:

- Generally require that an agency commence and complete rulemaking activities within 180 days after it holds a public hearing on a petition to initiate rulemaking activities on an unadopted rule.
- Require the dissemination of additional notices of agency rulemaking activities on the Florida Administrative Register and through e-mails by an agency to its licensees and other interested persons.

- Authorize a person to challenge agency action by asserting that a rule or unadopted rule used as a basis for the agency's action is invalid.
- Require agencies to review their rules to identify rules the violation of which would constitute a minor violation and for which a notice of noncompliance will be the first enforcement action.

The bill also makes the APA's summary hearing procedures applicable to challenges to proposed regulatory permits related to special events, such as a boat show, on sovereign submerged land.

SB 218 – Offenses Involving Electronic Benefits

Effective October 1, 2016; Chapter 2016-185, L.O.F.; by Criminal Justice Committee; and Senators Hutson, Gaetz and Negron (HB 105 by Criminal Justice Subcommittee; and Representative Smith, Baxley, Drake, Harrell, Perry, Pilon, Porter, Sprowls, Steube, Stevenson, Van Zant and Eisnaugle)
Affected Division(s): Public Assistance Fraud

The bill amends s. 414.39, F.S., relating to public assistance fraud. This statute, in part, punishes a person who knowingly traffics (or knowingly attempts to traffic or knowingly aids another person in trafficking) in a food assistance card, an authorization for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.

The bill specifies acts included in the term "traffic" such as buying or selling electronic benefits transfer cards for cash or consideration other than eligible food and exchanging firearms or controlled substances for food assistance benefits. The bill also punishes a person who possesses two or more electronic benefits transfer cards issued to other persons and sells or attempts to sell one or more of those cards. The first violation is a first degree misdemeanor; a second or subsequent violation is a third degree felony. Further, in addition to any other penalty, a violator shall be ordered by the court to serve at least 20 hours of community service. Community service hours must be performed at a nonprofit entity that provides the community with food services, if the court determines that community service can be performed at such entity.

HB 221 – Out-of-Network Health Insurance Coverage (Balanced Billing)

Effective July 1, 2016; Chatper 2016-222, L.O.F.; by Health and Human Services Committee; Appropriations Committee; Insurance and Banking Subcommittee; and Representatives Trujillo, Adkins, Artiles, Avila, Mayfield, O'Toole, Spano, Stark and Watson (SB 1442 by Appropriations Committee; Banking and Insurance Committee; Health Policy Committee; and Senator Garcia)
Affected Division(s): Consumer Service; Insurance Fraud; Office of Insurance Regulation

The bill prohibits an out-of-network provider from balance billing members of a preferred provider organization (PPO) or an exclusive provider organization (EPO) for covered emergency services or covered nonemergency services. The bill establishes a payment process for insurers to provide reimbursement for such out-of-network services.

The bill amends the claims resolution process to add several mandatory components and voluntarily steps to resolve billing issues between providers and insurers. The parties may make offers and the other party has 15 days to accept once received. If the party does not accept the offer and the final order amount is greater than 90 percent or less than 110 percent of the offer amount, the party receiving the offer must pay the final order amount to the offering party and is deemed the non-prevailing party.

The bill requires insurers to provide coverage for emergency services without a prior authorization determination and regardless of whether the provider is a participating provider. Applicable cost sharing must be the same for participating or nonparticipating providers for the same services. An insurer is solely liable for the payment of fees to a non-participating provider for covered nonemergency services other than any applicable copays, deductibles and coinsurance when such services are provided in a facility that has a contract with the insurer for the nonemergency services and would have otherwise been obligated to provide services under the contract, and the insured does not have the opportunity to choose a participating provider at the facility. Insurers or health care providers may not balance bill the insured.

The bill also provides that willful noncompliance by a provider (health care practitioners subject to regulation under ch. 456, 458, or 459, F.S.) with the balance billing provisions for covered emergency services and nonemergency services, are grounds for discipline by the Department of Health if such noncompliance occurs with such frequency as to constitute a general business practice. Other specified providers (hospitals, ambulatory surgical centers, specialty hospitals, and urgent care centers) are required to comply with the balance billing provisions as a condition of licensure.

Additionally, the bill provides that willfully failing to comply with the balance billing provisions with such frequency as to constitute a general business practice is defined as an unfair method of competition and an unfair or deceptive act or practice.

In order to put the public on notice, hospitals are required under the bill to maintain information on their websites with contact information for practitioners and practice groups contracting with the hospital. The website must also provide notice that services may be provided in the hospital by practitioners who bill separately from the hospital and that such practitioners might or might not participate with the same health insurance carriers as the hospital. The bill adds compliance with these new provisions as a condition of licensure for hospitals, surgical centers, and urgent care centers.

Insurers must also provide on its website, by specialty, a current listing of all participating providers, their address, phone numbers, languages spoken, hospital affiliations, and board certifications. Such lists must be updated monthly with additions and terminations.
Effective January 1, 2017, certain insurance policies must include a specific disclosure warning insureds that limited benefits will be paid when nonparticipating providers are used.

The bill requires a health insurance plan or health maintenance contract to provide coverage for the treatment of Down syndrome through speech therapy, occupational therapy, physical therapy, and applied behavior analysis services.

The bill also provides more detailed provisions relating to the use of a uniform prior authorization form approved by the Financial Services Commission that was also enacted in HB 423 during this Session. The bill expressly provides that the provisions in this act control regardless of the order in which the bills are enacted. In this bill, the prior authorization form, if applicable, must be used beginning January 1, 2017, or six months after rules adopting the prior authorization form take effect, and specific elements to be included in the two-page form are provided.

HB 273 – Public Records

Effective March 8, 2016; Chapter 2016-20, L.O.F.; by Government Operations Subcommittee; and Representatives Beshears, Kerner, Van Zant, Wood and Campbell (SB 390 by Judiciary Committee and Senator Simpson)
Affected Division(s): Legal; Accounting and Auditing

Currently, private contractors who act on behalf of a public agency are required to comply with public records laws in the same manner as a public agency. The bill makes changes to the law regarding provisions in a contract for services; possession of public records at the end of a contract for services; and liability in public records lawsuits.

The bill repeals the requirement that each contract for services require the contractor to transfer its public records to the public agency upon termination of the contract. Instead, the contract must address whether the contractor will retain the public records or transfer the public records to the public agency upon completion of the contract. This bill requires contracts for services between a public agency and a contractor that are amended or entered into on or after July 1, 2016, to include the following provisions:

- A statement informing the contractor of the contact information of the public agency's custodian of public records and instructing the contractor to contact the public agency's records custodian concerning any questions the contractor may have regarding the contractor's duties to provide public records relating to the contract;
- Terms requiring a contractor to comply with a public agency's request for a copy of a public record or to permit inspection of a public record;
- Terms requiring a contractor to prevent disclosure of confidential or exempt information while the contractor has custody of a public record; and,
- Terms requiring a contractor to comply with all applicable public records requirements if the contractor retains public records after the contract for services is completed.

The bill requires a request for public records relating to a contract for services to be made directly to the agency. If the public agency determines that it does not possess the records, it must immediately notify the contractor, and the contractor must provide the records or allow access to the records within a reasonable time. A contractor who fails to provide the records to the agency within a reasonable time may be subject to certain penalties.

The bill provides that if a civil action is filed against a contractor to compel production of public records, the court must assess and award against the contractor the reasonable costs of enforcement, including attorney fees, if:

- The court determines that a contractor unlawfully refused to comply with the public records request within a reasonable time; and,
- The plaintiff provided written notice of the public records request to the public agency and the contractor at least eight business days before filing the civil action.

The bill specifies that a contractor who complies with the public records request within eight business days after the notice is sent is not liable for the reasonable costs of enforcement.

SB 286 – Mergers and Acquisitions Brokers

Effective July 1, 2016; Chapter 2016-111, L.O.F.; by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Brandes (HB 817 by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representative Raulerson)
Affected Division(s): Office of Financial Regulation

The bill creates an exemption from registration with the Office of Financial Regulation for a merger and acquisition (M&A) broker facilitating the offer or sale of securities in connection with the transfer of ownership of an eligible privately held company. Generally, an M&A broker, acting as an intermediary, engages in the business of transferring the ownership and control of a privately-held company through the sale of the business, which may be structured as an asset or securities transaction. The bill also provides an exemption for the securities transactions that are conducted through an M&A broker if certain conditions are met.

Failure to meet the requirements of statutory exemptions can subject entities to civil, criminal, and administrative liability for the sale of unregistered securities.

SB 340 – Vision Care Plans

Effective July 1, 2016; Chapter 2016-69, L.O.F.; by Senators Latvala and Gaetz (HB 337 by Representatives Peters, Rogers and Campbell)
Affected Division(s): Insurance Fraud; Consumer Services; Office of Insurance Regulation

The bill prohibits an insurer, a prepaid limited health service organization (PLHSO), or a health maintenance organization (HMO) from requiring a licensed ophthalmologist or licensed optometrist to join a network solely for credentialing the licensee for another insurer's, PLHSO's, or HMO's vision network, respectively. The bill does not prevent an insurer, PLHSO, or HMO from entering into a contract with another insurer's, PLHSO's, or HMO's vision care plan to use the vision network.

Further, plans are prohibited from restricting a licensed ophthalmologist, optometrist, or optician to specific suppliers of material or optical labs. However, the bill provides that this provision does not restrict an insurer, PLHSO, or HMO in determining specific amounts of coverage or

reimbursement for the use of network or out-of-network suppliers or labs. The bill provides that a knowing violation of either of these provisions, as described above, constitutes an unfair insurance trade practice under s. 626.9541(1)(d), F.S.

The bill also requires insurers, PLHSOs, and HMOs to update their online vision care network directory monthly to reflect currently participating providers in their respective network.

HB 413 – Title Insurance/Assumption of Risks

Effective July 1, 2016; Chapter 2016-82, L.O.F.; by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representative Hager (SB 548 by Appropriations Committee; Banking and Insurance Committee; and Senator Richter)
Affected Division(s): Office of Insurance Regulation; Rehabilitation and Liquidation

This bill increases the limit of risk a title insurer may assume on a single contract to not greater than its surplus as to policyholders. This bill also requires a title insurer to reinsure any excess above the surplus as to policyholders from authorized insurers or reinsurers that may provide reinsurance under s. 624.610, F.S. Currently, the limit of risk is one-half of the company's surplus as to policyholders and title insurers that are required to reinsure any excess may only obtain reinsurance from "approved" insurers.

SB 422 – Health Insurance Coverage for Opioids

Effective January 1, 2017; Chapter 2016-112, L.O.F.; by Senator Benacquisto (HB 363 by Insurance and Banking Subcommittee and Representatives Nunez and Artiles)
Affected Division(s): Consumer Services; Office of Insurance Regulation

The bill allows a health insurance policy providing coverage for opioid analgesic drug products to impose a prior authorization requirement for an abuse-deterrent opioid analgesic drug product only if the policy imposes the same prior authorization requirement for opioid analgesic drug products without an abuse-deterrence labeling claim. The bill also prohibits a health insurance policy from requiring the use of an opioid analgesic without an abuse-deterrent labeling claim before providing coverage for an abuse-deterrent opioid analgesic drug product.

HB 423 – Access to Health Care Services

Effective April 14, 2016; Chapter 2016-224, L.O.F.; by Representatives Pigman, Campbell, Combee, Fresen, Latvala (C), Raschein, Rogers, Rouson and Van Zant (SB 676 by Appropriations Committee; Banking and Insurance Committee; Health Policy Committee; and Senators Grimsley, Flores, Margolis, Altman, Detert, Bullard, Bean, Gibson, Clemens, Braynon, Diaz de la Portilla and Soto)
Affected Division(s): Consumer Services; Office of Insurance Regulation

The bill authorizes physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs beginning January 1, 2017, and creates additional statutory parameters for

their controlled substance prescribing. The bill provides that s. 464.012, F.S., relating to certification of ARNPs, shall be known as "The Barbara Lumpkin Prescribing Act."

Under the bill, an ARNP's and PA's prescribing privileges for controlled substances listed in Schedule II are limited to a seven-day supply and do not include the prescribing of psychotropic medications for children under 18 years of age, unless prescribed by an ARNP who is a psychiatric nurse. Prescribing privileges may also be limited by the controlled substance formularies that impose additional limitations on PA or ARNP prescribing privileges for specific medications. An ARNP or PA may not prescribe controlled substances in a pain management clinic.

The bill requires PAs and ARNPs to complete three hours of continuing education biennially on the safe and effective prescribing of controlled substances.

Beginning January 1, 2017, health insurers, health maintenance organizations, Medicaid managed care plans, and pharmacy benefits managers, which do not use an online prior authorization form, must use a standardized prior authorization form that the Financial Services Commission adopts by rule to obtain a prior authorization for a medical procedure, course of treatment, or prescription drug benefit. The bill specifies that electronic prior-authorization approvals do not preclude benefit verification or medical review by the insurer under either the medical or pharmacy benefits.

The bill authorizes a free clinic to receive a legislative appropriation or grants to support the delivery of contracted services by volunteer health care providers, including the employment of health care providers to supplement, coordinate, or support the delivery of such services, while retaining sovereign immunity protections under existing law. The bill further specifies that such appropriation or grant does not constitute compensation from the governmental contractor for services provided under the contract.

HB 431 – Firesafety/Agricultural Property

Effective July 1, 2016; Chapter 2016-83, L.O.F.; by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representatives Raburn, Combee, Beshears, Raulerson, Wood and Albritton (SB 822 by Appropriations Committee; Banking and Insurance Committee; and Senator Stargel)
Affected Division(s): State Fire Marshal; Legal
Implementation: Rules to be adopted.

The bill makes changes related to the Florida Fire Prevention Code on agricultural property.

The bill defines an "Agricultural pole barn" and exempts them from the Florida Fire Prevention Code, National Codes and the Life Safety Code. The bill clarifies tents currently exempt from such codes can be any shape up to 900 square feet.

The bill defines a nonresidential farm building and establishes classes for use in which such buildings can be exempt from the Florida Fire Prevention Code, National Codes and the Life Safety Code:

- Class 1: A nonresidential farm building that is used by the owner 12 times per year or fewer for agritourism activity with up to 100 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal.
- Class 2: A nonresidential farm building that is used by the owner for agritourism activity with up to 300 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal.
- Class 3: A structure or facility used primarily for housing, sheltering, or otherwise accommodating members of the general public. A structure or facility in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is subject to the Florida Fire Prevention Code.

The bill also requires the State Fire Marshal to adopt rules, including;

- The use of alternative lifesafety and fire prevention standards for Classes 1 and 2;
- Notification and inspection requirements for structures in Class 1 and Class 2;
- The application of the Florida Fire Prevention Code for structures in Class 3; and
- Any other standards or rules deemed necessary in order to facilitate the use of structures for agritourism activities.

Finally, the bill allows a local fire official to consider NFPA 101A: Guide on Alternative Approaches to Life Safety to identify low-cost, reasonable alternatives to fire safety.

SB 458 – Transfer of Structured Settlement Payments

Effective March 10, 2016; Chapter 2016-45, L.O.F.; by Banking and Insurance Committee and Senator Richter (HB 379 by Insurance and Banking Subcommittee, Civil Justice Subcommittee and Representative Santiago)
Affected Division(s): Accounting and Auditing; Consumer Services; Legal

This bill makes changes to the laws governing the transfer of the right to receive payments under a structured settlement agreement. The changes made by the bill:

- Specify that the court having jurisdiction over an application to transfer structured settlement payment rights is the court where the payee resides or, if the payee does not reside in this state, the court that approved the structured settlement agreement or the court in which a claim was pending which led to the structured settlement agreement;
- Require an applicant seeking to receive the payments under a structured settlement agreement to provide additional information about the payee in its application to the court;
- Require the payee to appear in court for the hearing on the application unless good cause exists to excuse the payee's attendance;

- Grant immunity to structured settlement obligors and annuity issuers that act in reliance on court orders approving the transfer of a structured settlement agreement;
- Make structured settlement obligors and annuity issuers immune from liability for a transferee's failure to provide required disclosures to the payee or to provide all the required information in its application to the court; and
- Allow the transfer of structured settlement payments notwithstanding the terms of a structured settlement agreement prohibiting those transfers.

The bill may result in more favorable terms for payees who seek to sell the right to payments under their structured settlement agreements. The bill also increases the marketability of structured settlement payment rights.

HB 535 – Building Codes

Effective July 1, 2016; Chapter 2016-129, L.O.F.; by Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Business and Professions Subcommittee; and Representatives Eagle, Avila, Cortes (B), Drake, Goodson, Grant, Passidomo, Renner, Van Zant and Williams (SB 704 by Fiscal Policy Committee; Community Affairs Committee; and Senator Hutson)
Affected Division(s): State Fire Marshal: Legal
Implementation: Rules to be adopted

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for public health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.

In 1996, a study commission was appointed to review the system of local codes and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission recommendations for a single state building code and an enhanced oversight role for the state in local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Code) and that first edition replaced all local codes on March 1, 2002. In 2004, for the second edition of the Code, the state adopted the International Code Council I-Codes. All subsequent Codes have been adopted utilizing the International Code Council I-Codes as the base code. The most recent Code is the fifth edition which is referred to as the 2014 Code. The 2014 Code went into effect June 30, 2015.

The Florida Building Commission (FBC) was statutorily created to implement the Code. The FBC, which is housed within the Department of Business and Professional Regulation, is a 27-member technical body responsible for the development, maintenance, and interpretation of the Code. Most substantive issues before the FBC are vetted through a workgroup process where consensus recommendations are developed and submitted by appointed representative stakeholder groups in an open process with several opportunities for public input. According to the FBC, through this participatory process, the members "strive for agreements which all of the

members can accept, support, live with or agree not to oppose;" when the FBC finds that 100 percent acceptance or support is not achievable, "final decisions require at least 75 percent favorable vote of all members present and voting."

The bill makes the following changes to law:

- Makes several adjustments to the training and experience required to take the certification examinations for building code inspector, plans examiner, and building code administrator;
- Exempts employees of apartment communities with 100 or more units from contractor licensing requirements if making minor repairs to existing electric water heaters or existing electric heating, ventilation, and air conditioning (HVAC) systems, if they meet certain training and experience criteria and the repair involves parts costing under $1,000;
- Allows Category I liquefied petroleum gas dealers, liquefied petroleum gas installers, and specialty installers to disconnect and reconnect water lines in the servicing or replacement of existing water heaters;
- Adds Division II contractors to the Florida Homeowners' Construction Recovery Fund section, which would allow homeowners to make a claim and receive restitution from the fund when they have been harmed by a Division II contractor, subject to certain requirements and financial caps;
- Exempts specific low-voltage landscape lighting from having to be installed by a licensed electrical contractor;
- Clarifies that portable pools that are used for swimming lessons that are sponsored or provided by school districts and temporary pools used in conjunction with a sanctioned national or international swimming or diving event are considered private pools and not subject to regulation;
- Provides that a residential pool that is equipped with a pool alarm that, when placed in the pool, will sound if it detects an accidental or unauthorized entrance into the water meets the safety requirements for residential pools;
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force to study and report on specific standards, especially with regard to minimizing risks of electrocutions linked to swimming pools *(no appointments by CFO or State Fire Marshal)*;
- Replaces a representative on the Accessibility Advisory Council for a defunct organization with the new organization;
- Revises the panels designated to review interpretations of the Florida Building Code and the Florida Accessibility Code for Building Construction;
- Provides funding for the recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup and provides funding for Florida Fire Prevention Code informal interpretations (*State Fire Marshal shall adopt rules)*;
- Allows local boards created to address conflicts between the Florida Building Code and the Florida Fire Prevention Code to combine to create a single local board that must include at least one fire professional;
- Requires the Florida Building Code to mandate having two fire service access elevators in all buildings above a certain height;
- Authorizes local building officials to issue phased permits for construction;
- Subjects certain building officials to discipline if they deny, revoke, or modify a specified permit without providing a reason for the denial, revocation, or modification;

- Requires a contractor and an alarm system monitoring company to provide notice to a property owner regarding the obligation to register their alarm system, if applicable;
- Provides that a contractor or an alarm system monitoring company is not liable for any penalties assessed or imposed by the applicable local government for failure to register the alarm, dispatch to an unregistered user, or excessive false alarms;
- Prohibits local enforcement agencies from requiring payment of any additional fees, charges, or expenses associated with providing proof of licensure as a contractor, recording a contractor license, or providing or recording evidence of workers' compensation insurance covered by a contractor;
- Excludes roof covering replacement and repair work associated with the prevention of degradation of the residence from the requirement to include the provision of opening protections in any activity requiring a building permit with a cost over $50,000;
- Adds Underwriters Laboratories, LLC, and Intertek Testing Services NA, Inc., to the list of entities that are authorized to produce information on which product approvals are based, related to the Florida Building Code;
- Reinstates a wind mitigation exemption for professional engineer certification of HVAC units being installed;
- Exempts Wi-Fi smoke alarms and those that contain multiple sensors, such as those combined with carbon monoxide alarms, from the 10-year, nonremovable, nonreplaceable battery provision;
- Provides that the mandatory blower door testing for residential buildings or dwellings does not take effect until July 1, 2017, and does not apply to construction permitted before July 1, 2017;
- Requires the local enforcement agency to accept duct and air infiltration tests conducted in accordance with the Florida Building Code if performed by certain individuals;
- Adds provisions to the Fire Prevention Code to:
  - ✓ Require new high-rise buildings to comply with minimum radio signal strength for fire department communications set by the local authority with jurisdiction. Existing high-rise buildings must comply by 2022 and existing apartment buildings must comply by 2025;
  - ✓ Require areas of refuge to be provided when required by the Accessibility volume of the Florida Building Code;
  - ✓ Authorize fire officials to use the Fire Safety Evaluation System to identify low-cost alternatives for compliance; and
  - ✓ Require technicians that work on fire pump control panels and drivers to be under contract with a licensed fire protection contractor;
- Requires a restaurant, a cafeteria, or a similar dining facility, including an associated commercial kitchen, to have sprinklers only if it has a fire area occupancy load of over 200 patrons;
- Adds provisions to the Florida Building Code regarding fire separation distance and roof overhang projections;
- Creates the Construction Industry Task Force within the University of Florida Rinker School of Construction *(no appointments by CFO or State Fire Marshal)*;
- Provides exceptions to the residential shower lining requirements in the Florida Building Code;

- Allows a specific energy rating index as an option for compliance with the Energy Conservation volume of the Florida Building Code;
- Requires the Florida Building Commission to continue its current adoption process of the 2015 International Energy Conservation Code and determine by October 1, 2016, whether onsite renewable power generation may be used for compliance and whether onsite renewable power generation may be used for a period longer than 3 years but not more than 6 consecutive years; and
- Effective July 1, 2017, requires counties and local enforcement agencies to post each type of building permit application on its website and allow for the submittal of completed applications to the appropriate building department.

SB 592 – Public Records/Dept. of Financial Services[10]

Effective March 30, 2016; Chapter 2016-159, L.O.F.; by Governmental Oversight and Accountability Committee and Senator Hutson (HB 463 by Government Operations Subcommittee; Insurance and Banking Subcommittee; and Representatives DuBose and Passidomo)
Affected Division(s): Administration; Legal; Agent and Agency Services; Accounting and Auditing; Workers' Compensation; Public Assistance Fraud; Funeral, Cemetery, and Consumer Serivces
Implementation: Identify employees exempt from public records disclosure

This bill amends s. 119.071, F.S., expanding the public records exemption for agency personnel information to include the home addresses, telephone numbers, social security numbers, dates of birth, and photographs of former and current nonsworn investigative personnel of the Department of Financial Services and former and current emergency medical technicians or paramedics certified under ch. 401, F.S. The bill also exempts the names, home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment, locations of schools and child care facilities of the spouses and children of such personnel.

The bill specifies that the exemptions are subject to the Open Government Sunset Review Act and provides a statement of public necessity for the exemptions.

HB 613 – Workers' Compensation System Administration[11]

Effective October 1, 2016; Chapter 2016-56, L.O.F.; by Regulatory Affairs Committee and Representative Sullivan (SB 986 by Banking and Insurance Committee and Senator Simpson)
Affected Division(s): Workers' Compensation: Legal
Implementation: Rule revisions

[10] DFS initiated legislation.
[11] DFS initiated legislation.

The bill eliminates the new insurer registration fee ($100) and the Special Disability Trust Fund notice of claim fee ($250) and the proof of claim fee ($500). The bill also eliminates the Preferred Worker Program, which has been inactive for over 10 years.

The bill revises provisions related to compliance and enforcement as follows:

- Creates a 25 percent penalty credit for employers who have not been issued a stop-work order or order of penalty assessment previously for non-compliance with coverage requirements if they maintain required business records and timely respond to the written DFS business records requests.
- Establishes a deadline for employers to file certain documentation to receive a penalty reduction.
- Reduces the imputed payroll multiplier related to penalty calculations from 2 times to 1.5 times the statewide average weekly wage.
- Eliminates a 3-day response requirement applicable to employer held exemption documentation.
- Allows employers to notify their insurers of their employee's coverage exemption, rather than requiring that a copy of the exemption be provided.

The bill revises provisions related to health care services and disputes as follows:

- Removes insurers and employers from the medical reimbursement dispute provision.
- Allows a Judge of Compensation Claims the discretion to designate an expert medical advisor, rather than only those that are certified by the DFS.

SB 624 – Public Records/State Agency Information Technology Security Programs

Effective March 25, 2016; Chapter 2016-114, L.O.F.; by Governmental Oversight and Accountability; and Senator Hays (HB 1037 by State Affairs Committee; Government Operations Subcommittee; and Representative Artiles)
Affected Division(s): Information Systems; Legal; Office of Inspector General

This bill makes confidential and exempt from public disclosure requirements information relating to how an agency detects, investigates or responds to information technology (IT) security incidents if the disclosure of such IT security information would facilitate the unauthorized access, modification, disclosure or destruction of data or IT resources. The bill provides that IT resources include an agency's networks, computers, software, as well as information related to an agency's IT systems.

The bill also makes confidential and exempt from public disclosure requirements portions of risk assessments, external audits, evaluations or other reports of a state agency's IT security program. Such information is confidential and exempt if the information would facilitate unauthorized modification, disclosure or destruction of data or IT resources.

Both exemptions require agencies to release confidential and exempt information to the Auditor General, Agency for State Technology, Florida Department of Law Enforcement, and the Chief

Inspector General. Agencies have the discretion to release confidential and exempt information to local governments, state agencies or federal agencies.

These exemptions have retroactive application and will be repealed on October 2, 2021, unless saved from repeal by the Legislature, pursuant to the Open Government Sunset Review Act. Finally, the bill includes legislative findings which provide the public necessity for each exemption.

SB 626 – Consumer Credit

Effective October 3, 2016; Chapter 2016-160, L.O.F.; by Banking and Insurance Committee; and Senators Gaetz and Altman (HB 717 by Insurance and Banking Subcommittee and Representatives Burgess, Ahern, Eisnaugle, Gaetz, Murphy, Perry, Peters and Santiago)
Affected Division(s): Office of Financial Regulation

The bill authorizes the Office of Financial Regulation to enforce the provisions of the federal Military Lending Act (MLA) for state-chartered financial institutions, consumer finance lenders, deferred presentment providers (payday lenders), and title loan lenders. The MLA provides greater consumer protections for service members and their dependents in connection with a broad range of consumer credit transactions, including consumer finance loans, payday loans, title loans, overdraft lines of credit, small dollar loans, and credit card accounts. The MLA caps the Military Annual Percentage Rate (MAPR) on these credit transactions at 36 percent, requires oral and written disclosures for the consumer, and prohibits certain terms and conditions on the loan, such as mandatory arbitration and prepayment penalties.

HB 651 – Dept. of Financial Services Agency Bill[12]

Effective July 1, 2016; Chapter 2016-132, L.O.F.; by Regulatory Affairs Committee; Governmental Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; Representatives Beshears and Williams (SB 992 by Appropriations Committee; Banking and Insurance Committee; and Senator Brandes)
Affected Division(s): Legal; State Fire Marshal; Accounting and Auditing; Treasury; Insurance Fraud; Office of Insurance Regulation; Information Systems; Administration
Implementation: Create electronic system for service of process; Establish Firefighter Assistance Grant Program; Selection criteria for FL Surplus Lines Association Board of Governors is changed; Rulemaking authority

Current law requires plaintiffs to serve lawsuits on insurance companies by serving documents initiating the lawsuit at the DFS. These documents are sent to the DFS by mail or by process server. The bill allows the DFS to create a system for electronic service of process and create an internet-based system for distributing documents to insurance companies.

The Chief Financial Officer (CFO) is designated the State Fire Marshal. The CFO administers the state fire code and the certification of firefighters. This bill provides for expiration of

[12] DFS initiated legislation.

firefighter certifications after four years and provides a renewal process. It provides additional grounds that the State Fire Marshal can suspend, revoke, or deny an application for certification. The bill creates a procedure for an applicant for firefighter certification with a criminal record or dishonorable discharge from the United States Armed Forces to obtain a certificate if they can demonstrate by clear and convincing evidence that they do not pose a risk to persons or property. The bill updates the safety requirements and standards for carbon monoxide detectors in rooms containing boilers. The bill amends the Anti-Fraud Reward Program to allow rewards for persons who provide information related to crimes investigated by the State Fire Marshal.

The bill creates the "Firefighter Assistance Grant Program." The purpose of the program is to improve the emergency response capability of volunteer fire departments and combination fire departments. The program will provide financial assistance to improve firefighter safety and enable fire departments to provide firefighting, emergency medical, and rescue services to their communities.

Under current law, the exemption for medical malpractice insurance premiums from emergency assessments of the Florida Hurricane Catastrophe Fund will expire May 31, 2016. The bill extends the exemption until May 31, 2019.

This bill amends the Florida Single Audit Act to raise the audit threshold from $500,000 to $750,000 to conform to the federal single audit act. It reorganizes the statute to place the provisions relating to higher education entities in one section.

The bill provides that employees of the state university system, a special district, or a water management district can participate in the deferred compensation program for state employees administered by the DFS.

The bill allows the DFS to have access of digital photographs from the Department of Highway Safety and Motor Vehicles to investigate allegations of violations of the insurance code.

The bill provides that a licensed health insurance agent who assists an insured with coverage questions, medical procedure coding issues, balance billing issues, understanding the claim filing process, or filing a claim is not acting as a public adjuster.

The bill authorizes the DFS to select five persons nominated by the Florida Surplus Lines Association to serve on the Florida Surplus Lines Service Office board of governors. Current law requires the DFS to select members from the Florida Surplus Lines Association's regular membership but does not provide for nominations. The bill also provides that a surplus lines agent who has not transacted business during a quarter need not file an affidavit with the Florida Surplus Lines Service Office stating that all business conducted by the agent has been submitted to the office.

The department administers the sinkhole neutral evaluation program for the resolution of disputed sinkhole insurance claims. This bill amends the qualifications of the neutral evaluator to provide that one cannot serve as a neutral evaluator on a claim if the individual was employed, within the previous five years, by the firm that did the initial sinkhole testing.

The bill provides increased rulemaking authority for the unclaimed property program within the DFS.

The bill exempts travel insurance from the full rate review requirements of s. 627.062(2)(a) and (f), F.S., and the requirement to annually make a rate filing under s. 627.0645, F.S., if the insurance is issued as a master group policy, with a situs in another state, where each certificateholder pays less than $30 for each covered trip, and if the insurer has written less than $1 million in annual travel insurance premiums in this state during the most recent calendar year.

The bill appropriates the recurring sum of $229,165 and one position to implement the bill.

HB 659 – Automobile Insurance

Effective July 1, 2016; Chapter 2016-133, L.O.F.; by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representative Santiago (SB 1036 by Rules Committee; Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Brandes)
Affected Division(s): Office of Insurance Regulation; Consumer Services; Insurance Fraud

The bill makes the following changes relating to automobile insurance:

Use of a Single ZIP-Code as a Rating Territory
The bill allows motor vehicle insurance rates to be developed using rating territories contained within a single zip code if the justification for the rate incorporates sufficient loss and loss adjustment expense experience to be actuarially sound. The Office of Insurance Regulation (OIR) must require that a rate filing resulting from the use of a single zip code as a rating territory does not contain a rate or rate change that is excessive, inadequate, or unfairly discriminatory.

Florida Automobile Joint Underwriting Association
The bill allows the Florida Automobile Joint Underwriting Association (Auto JUA) to cancel personal lines or commercial lines policies issued by the plan for nonpayment of premium if a check is dishonored for any reason or any other form of payment is rejected or deemed invalid. The cancellation may only occur within the first 60 days of the policy or binder. The bill prohibits an insured of the Auto JUA from cancelling a policy or binder within the first 90 days of its effective date unless the insured vehicle is totally destroyed, ownership of the vehicle is transferred, or another policy is purchased covering the vehicle.

Payment of Premium and Return of Unearned Premium
The bill allows motor vehicle insureds to apply the unearned portion of premium to unpaid balances of other policies with the same insurer or insurer group instead of receiving the premium via mail or electronic transfer. The bill specifies that motor vehicle insurance premiums may be paid in cash in the form of a draft or drafts. The bill allows an insurer to impose an insufficient funds fee of up to $15 per occurrence if, due to insufficient funds, specified methods of premium payments are declined. The bill also exempts policies paid via a recurring credit card

or debit card agreement with the insurer from the requirement that, prior to issuing or binding a motor vehicle insurance policy, the insured must pay at least 2 months' premium.

Personal Injury Protection (PIP)
The bill exempts publicly traded corporations with $250 million or more in total annual sales in health care services from the requirement to obtain health care clinic licensure as a condition of qualifying for reimbursement under PIP coverage. The bill also clarifies and updates references to billing requirements under PIP.

HB 695 – Title Insurance/Reserve Requirements

Effective July 1, 2016; Chapter 2016-57, L.O.F.; by Regulatory Affairs Committee and Representative Boyd (SB 940 by Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Bradley)
Affected Division(s): Office of Insurance Regulation; Rehabilitation and Liquidation

The bill changes the unearned premium reserve requirement for title insurers that are members of an insurance holding company system having $1 billion or more in surplus as to policyholders and have a financial strength rating of "superior," "excellent," "exceptional," or an equivalent rating by a rating agency acceptable to the Office of Insurance Regulation. Such insurers must have a reserve of a minimum of 6.5 percent of the total of direct premiums written and premiums for reinsurance assumed, with certain adjustments. Currently, only title insurers with a surplus in excess of $50 million can use that formula to calculate required unearned premium reserve.

The bill removes the requirement that a title insurer that transfers its domicile to Florida must set an unearned premium reserve and release its unearned premium reserve under the laws of its previous domicile state. Instead, the bill requires a title insurer that transfers its domicile to Florida to calculate an adjusted statutory or unearned premium reserve as if, on the effective date of redomestication, the insurer had been domesticated in Florida for the previous 20 years and authorizes the release of such reserve.

SB 708 – Dozier School for Boys

Effective March 30, 2016; Chapter 2016-163, L.O.F.; by Appropriations Committee; Governmental Oversight and Accountability Committee; and Senators Joyner and Smith (HB 533 by Appropriations Committee; Government Operations Subcommittee; Representatives Narain, DuBose, Jacobs, Jenne, Murphy, Pafford, Renner, Williams and Dudley)
Affected Division(s): Cabinet
Action: CFO appointment to Dozier Task Force. A report by task force due to Governor, Cabinet and others by October 1, 2016, that includes recommendations regarding the creation and maintenance of a memorial and location of a site for the reinterment of unidentified or unclaimed remains. The Task Force is repealed on December 31, 2016.

This bill authorizes the Department of State (DOS) to reimburse the next of kin or pay the provider or funeral home up to $7,500 for funeral, reinterment, and grave marker expenses for each child's remains recovered from the Arthur G. Dozier (Dozier) School for Boys by the

University of South Florida (USF). The historical resources and artifacts recovered from Dozier are to remain in the custody of the USF pending release to the DOS, and any recovered human remains are to be held by the USF pending release to the next of kin or reinterment.

The bill requires the DOS to contract with the USF for identification and location of next of kin. The DOS will notify the next of kin and make arrangements for the payment or reimbursement of eligible expenses.

The bill establishes a nine-member task force to make recommendations to the DOS about creating and maintaining a memorial and the location of a site for the reinterment of unidentified or unclaimed remains. The task force recommendations must be submitted to the Governor and Cabinet, the President of the Senate, the Speaker of the House or Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives by October 1, 2016. The bill also provides for the repeal of the task force on December 31, 2016.

The bill also requires the DOS to submit a report by February 1, 2018, to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives on payments and expenditures required by the bill.

For Fiscal Year 2016-2017, the bill appropriates $500,000 in nonrecurring funds from the General Revenue Fund to the DOS to implement the provisions of the bill. Any unused funds will revert to the General Revenue Fund and are appropriated for Fiscal Year 2017-2018 for the same purpose.

SB 752 – Public Records/Agency Inspector General Personnel

Effective March 30, 2016; Chapter 2016-164, L.O.F.; by Rules Committee; Governmental Oversight and Accountability Committee; and Senator Abruzzo (HB 587 by Government Operations Subcommittee and Representative Powell)
Affected Division(s): Administration: Office of Inspector General; Legal
Implementation: Identify employees exempt from public records disclosure

This bill exempts from public disclosure requirements certain information relating to the personnel of an agency's office of inspector general or internal audit department. The exemption applies to personnel whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation or other activities that could lead to criminal or administrative penalties. The bill exempts certain personal identifying and location information of the employee, the employee's spouse and the employee's child. The exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2021, unless reenacted by the Legislature. Finally, the bill includes a public necessity statement justifying the exemption.

HB 783 – Unclaimed Property/Locators[13]

Effective July 1, 2016; Chapter 2016-90, L.O.F.; by Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; and Representatives Trumbull and Raschein (SB 970 by Banking and Insurance Committee and Senator Richter)
Affected Division(s): Legal; Unclaimed Property

The bill amends the Florida Disposition of Unclaimed Property Act as implemented by the Department of Financial Services (DFS) Bureau of Unclaimed Property[14].

The bill makes the following changes to the act:

- Eliminates exceptions to the general 20 percent fee cap for out of country claimants and non-probated claims;
- Requires that the purchase agreement for unclaimed property which compensates the buyer through a flat fee show the fee as a percentage of the property;
- Requires that agreements to recover unclaimed property other than an original limited power of attorney be executed by the claimant no earlier than the date the claimant executed the original limited power of attorney;
- Requires a claim for unclaimed property to include certified copies of all court pleadings to establish entitlement to the property which were filed within 180 days before the claim form is signed;
- Repeals a provision giving DFS the exclusive right to notify owners of the existence of unclaimed property valued at more than $250 within the first 45 days after the property is added to the unclaimed property database;
- Provides that unclaimed property in a campaign account for public office will escheat to the state and the proceeds will be deposited in the State School Trust Fund.
- Increases from $5,000 to $10,000 the aggregate value of the unclaimed property held by DFS which may be claimed by the beneficiary of the estate of a deceased owner without initiating probate proceedings;
- Authorizes DFS to estimate the value of unclaimed property held by the holder of the property if the holder fails to provide records after being requested to do so; and
- Increases to 30 days from 10 days the time by which a purchaser of unclaimed property must pay the seller, and voids the claim by the purchaser, if proof of payment is not filed with DFS.
- Exempts unclaimed patronage refunds held by a not-for-profit water and wastewater corporation under s. 196.2002, F.S., from the unclaimed property statute.

SB 812 – Reciprocal Insurers

Effective July 1, 2016; Chapter 2016-168, L.O.F.; by Senator Diaz de la Portilla (HB 699 by Representative Grant)
Affected Division(s): Office of Insurance Regulation

[13] DFS initiated legislation.
[14] The Bureau of Unclaimed Property was provided division status and named the Division of Unclaimed Property by the passage of SB 908.

This bill creates an alternative process for a domestic reciprocal insurer to distribute unassigned funds, such as unused premiums, savings, and credits, to policyholders. The process created by the bill differs from current law primarily by not requiring the reciprocal insurer to create subscriber accounts to make distributions to policyholders. Distributions using this method may not exceed 50 percent of the insurer's net income from the previous calendar year and may be up to 10 percent of the insurer's surplus.

SB 828 – Insurance Guaranty Association Assessments

Effective July 1, 2016; Chapter 2016-170, L.O.F.; by Finance and Tax Committee; Banking and Insurance Committee; and Senator Bean (HB 467 by Regulatory Affairs Committee; Finance and Tax Committee; Insurance and Banking Subcommittee; and Representative Broxson)
Affected Division(s): Office of Insurance Regulation; Rehabilitation and Liquidation

The bill substantially revises the assessment process of the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA). The FWCIGA provides payment of workers' compensation claims of insolvent insurers and group self-insurance funds to avoid excessive delay in payment and to avoid financial loss to claimants in the event of the insolvency of a member insurer.

The bill provides the following changes to the FWCIGA assessment process:

- Revises the assessment recoupment method from recouping the assessment as part of the premium in a rate filing to adding a policy surcharge, which the insurer collects. The surcharge will not be subject to the insurance premium tax;
- Increases the assessment cap for self-insurance funds from 1.5 to 2 percent of net direct written premiums in Florida for workers' compensation insurance, which is consistent with the cap for insurers;
- Authorizes two assessment options for the FWCIGA, namely, an immediate single assessment payment by insurers with recoupment through policy surcharges; and an installment payment, which requires insurers to collect and remit policy surcharges quarterly to the FWCIGA;
- Revises the insurer's premium subject to an assessment from being based on the prior year's net direct written premium to the net direct written premium of the calendar year of the assessment; and
- Transfers order authority for assessments and other FWCIGA reporting related to insurer financial condition from the Department of Financial Services (DFS) to the Office of Insurance Regulation (OIR).

SB 854 – Funeral, Cemetery, and Consumer Services[15]

Effective July 1, 2016; Chapter 2016-172, L.O.F.; by Regulated Industries Committee; Banking and Insurance Committee; and Senator Hukill (HB 473 by Regulatory Affairs Committee;

[15] Includes DFS language.

Government Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; Representatives Roberson, Baxley, Broxson and Stevenson)
Affected Division(s): Funeral, Cemetery, and Consumer Services; Legal
Implementation: Rulemaking authority

The bill amends ch. 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act, and the licensure requirements related to funerals and cemeteries regulated by the Department of Financial Services and the Board of Funeral, Cemetery, and Consumer Services.

The bill:

- Amends definitions in s. 497.005, F.S.
- Requires an applicant for embalmer apprentice to be of good character.
- Requires an e-mail address for licensure and allows email as a means of notification.
- Requires the department adopt rules on discipline for miscellaneous financial errors.
- Specifies disputes regarding cremated remains must be resolved by the courts.
- Specifies cremated remains are not property and not subject to partition by a court unless a legally authorized person consents.
- Provides a consistent deposit requirement for graves, mausoleums, and columbaria.
- Specifies that care and maintenance (C&M) trusts must be maintained by a cemetery company so that the grounds, structures, and improvements of a cemetery are maintained.
- Requires withdrawals from C&M trusts to cemetery companies must be done through a net income withdrawal or total return withdrawal method.
- Requires the board and department to adopt rules concerning C&M trusts.
- Clarifies that the C&M trust annual report must include the fair market value of the trust.
- Prohibits a trustee from investing in or counting as assets life insurance policies or annuity contracts and allows the trustee to allocate and divide capital gains and losses.
- Grants the board rulemaking authority to classify items sold in preneed contracts as services, cash advances, or merchandise.
- Requires a preneed licensee to deposit all preneed contract funds into a trust upon electing inactive status.
- Clarifies when a preneed contract may be made irrevocable, for purposes of a person qualifying for assistance programs such as Medicaid and Supplemental Security Income.
- Requires preneed licensees to provide an annual trust reports to the department.
- Repeals the servicing agent exemption from preneed licensure.
- Repeals the use of surety bonding in lieu of establishing a trust for the deposit of funds. Those licensees that have bonds in place prior to July 1, 2016, may continue to use them.
- Requires cemetery companies to remit unexpended monies paid on irrevocable preneed contracts to the Agency Health Care Administration for deposit into the Medical Care Trust Fund after the beneficiary's final disposition.

HB 875 – Motor Vehicle Service Agreement Companies

Effective July 1, 2016; Chapter 2016-60, L.O.F.; by Insurance and Banking Subcommittee; and Representatives Stark, Santiago and McGhee (SB 1120 by Banking and Insurance Committee and Senator Abruzzo)
Affected Division(s): Office of Insurance Regulation; Consumer Services

The bill allows motor vehicle service agreements regulated under chapter 634, F.S., to warrant the replacement of tires or wheels damaged as a result of encountering a road hazard, and the replacement of keys or key fobs. The bill defines road hazard as it relates to wheel and tire damage, and also clarifies that an "additive product" does not include a product applied to the exterior or interior surface of a motor vehicle to protect appearances.

SB 908 – Dept. of Financial Service Organization[16]

Effective July 1, 2016; Chapter 2016-165, L.O.F.; by Senator Lee (HB 879 by Government Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; and Representative Renner)
Affected Division(s): Administration; Information Systems; Accounting and Auditing; Legal; State Fire Marshal; Insurance Fraud; Unclaimed Property
Implementation: Update budgetary references & org charts, relocate affected staff

The bill changes the organization of the Department of Financial Services (DFS). The bill repeals the statutory requirement to establish the following divisions and bureau:

- The Division of Legal Services;
- The Division of Information Systems and;
- The Bureau of Unclaimed Property.

The bill creates a Division of Unclaimed Property within the DFS. The DFS will continue to perform the functions performed by the Division of Legal Services and the Division of Information Systems but the CFO will have the authority to determine the organizational placement of those functions within the DFS.

The bill renames the Division of Insurance Fraud as the Division of Investigative and Forensic Services. It creates the Bureau of Forensic Services and the Bureau of Fire and Arson Investigations within the new division. The bill moves the Office of Fiscal Integrity from the Division of Accounting and Auditing to the new Division of Investigative and Forensic Services. The new division will perform the investigative functions currently performed by the Division of Insurance Fraud and the Division of State Fire Marshal.

HB 931 – Operations of Citizens Property Insurance Corporation

Effective July 1, 2016; Chapter 2016-229, L.O.F.; by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representatives Passidomo, Rodriguez J., Diaz (J), Raschein and Williams (SB 1630 by Ethics and Elections Committee; Banking and Insurance Committee; and Senator Flores)
Affected Division(s): Office of Insurance Regulation; Consumer Services; Agent and Agency Services

The bill requires Citizens to make changes, by January 1, 2017, to their plan of operation as it relates to take-out agreements made with private insurers. These changes require:

[16] DFS initiated legislation.

- Citizens to publish cycles for which take-out offers can be made.
- Private insurers to offer similar coverage comparable to Citizens and provide an estimate of premium.
- Private insurers must include in their take-out offers a comparison of coverages and rate between the insurer's policy and Citizens policy.
- Citizens to compile a list of companies that have shown interest in depopulating a policy and to make available to the agent of record.

The bill also:

- Requires that agents who write business for Citizens must also hold an appointment with an admitted carrier that is currently writing or renewing policies in the state.
- Allows the consumer representative to the Citizens Board of Governors to be afforded the same conflict of interest exemption as other board members.
- Allows Citizens to share underwriting and claims files data with authorized entities for the development of takeout plans or rating plans. General lines agents may not use such data to directly solicit policyholders.
- Allows Citizens to use a combination of the public model and private models when calculating the windstorm portion of rates.

HB 965 – Firesafety/Assisted Living Facilities

Effective July 1, 2016; Chapter 2016-92, L.O.F., by Health and Human Services Committee; Appropriations Committee; and Representative Harrison (SB 1164 by Children, Families, and Elder Affairs Committee; Banking and Insurance Committee; and Senator Legg)
Affected Division(s): State Fire Marshal

The bill authorizes the State Fire Marshal to use the most current edition of the National Fire Protection Association (NFPA) Life Safety Code, 101 and 101A, in determining the uniform safety fire code adopted for Assisted Living Facilities (ALFs). The bill amends s. 429.41, F.S., to repeal current fire safety requirements for ALFs that utilized previous editions of the NFPA Life Safety Code, including NFPA 101, 1994 edition.

The bill allows ALFs that have a building permit or certificate of occupancy issued before July 1, 2016, to remain under the provisions of the 1994 and 1995 editions of the NFPA Life Safety Code. Such facilities may make repairs, modernizations, renovations, or additions to or rehabilitate the facility in compliance with the 1994 and 1995 editions, as applicable. A facility must comply with the current NFPA Life Safety Code if it undergoes a Level III building alteration or rehabilitation under the Florida Building Code or seeks to utilize features not authorized under the 1994 or 1995 editions.

The bill removes the requirement that the State Fire Marshal provide specified training and education to the Agency for Health Care Administration employees and local government inspectors.

Lastly, the bill prohibits a local government or a utility from charging fees in excess of the actual expenses incurred in the installation and maintenance of an automatic fire sprinkler system in an existing ALF.

HB 966 – Unclaimed Property/Life Insurance Policies[17]

Effective April 12, 2016; Chapter 2016-219, L.O.F.; by Banking and Insurance Committee and Senators Benacquisto, Gaetz, Brandes, Negron, Bean, Hutson, Richter, Detert, Simpson, Simmons, Hays, Stargel, Soto and Bradley (HB 1041 by Regulatory Affairs Committee; and Representatives Hager, Adkins, Clarke-Reed, Combee, Dudley, Jenne, Raulerson, Rodrigues, Rogers, Watson, and Wood)
Affected Division(s): Accounting and Auditing, Legal; Unclaimed Property
Implementation: Rule revisions

The bill requires life insurers to determine whether their life or endowment insurance policyholders, annuitants, and retained asset account holders have died by annually comparing them against the United States Social Security Administration Death Master File (DMF). If an insurer compares annuities and other books of business with the DMF, the insurer must perform the comparison required by this bill at the same frequency. Insurers must also compare all life or endowment insurance policies, annuity contracts, and retained asset accounts that were in force on or after January 1, 1992. An insurer is required to perform the DMF comparison only for policies that are currently in-force if the insurer has compared all policies that were in force on or after January 1, 1992, or as of June 30, 2016, has a favorable targeted market conduct examination from the Office of Insurance Regulation (OIR) regarding claims-handling practices and use of the DMF or as of June 30, 2016, has entered into a regulatory settlement agreement with the OIR. The following products are not subject to the requirements of the bill: an annuity issued in connection with an employment-based plan subject to the Employee Retirement Income Security Act of 1974 or issued to fund an employment-based retirement plan, credit life or accidental death insurance, a joint and survivor annuity if an annuitant is still living, a policy issued to a group master policy owner for which the insurer does not perform recordkeeping functions, and life insurance assigned to a preneed licensee to fund a preneed funeral merchandise or service contract.

If a death is indicated, the bill requires the insurer to verify the death, verify if the deceased had other products with the company, determine if benefits are due, and attempt to locate and contact beneficiaries. If the policy or contract proceeds remain unclaimed 5 years after the date of death of the insured, annuitant, or account holder, the property escheats to the state as unclaimed property. Fines, penalties, or additional interest may not be imposed on the insurer for failure to report and remit property under the bill if such proceeds are reported and remitted to the Department of Financial Services (DFS) Bureau of Unclaimed Property[18] no later than May 1, 2021.

[17] DFS initiated legislation.
[18] The Bureau of Unclaimed Property was provided division status and named the Division of Unclaimed Property by the passage of SB 908.

The bill applies to all life insurers requirements agreed to by many of the largest life insurers in settlement agreements with the DFS, the Office of the Attorney General, and the OIR, often as part of multi-state settlement agreements. The settlement agreements are related to examinations that often find insurers use information from the Social Security Administration's Death Master File to stop paying a deceased person's annuity, but do not use such information to search for beneficiaries of a life insurance policy. According to the OIR, these settlement agreements have resulted in the return of over $5 billion to beneficiaries directly by the companies nationwide and over $2.4 billion being delivered to the states, which also attempt to locate and pay beneficiaries.

HB 981 – Administrative Procedures

Effective July 1, 2016; Chapter 2016-232, L.O.F.; by Representatives Richardson, Adkins, Albritton and Eisnaugle (SB 1226 by Senator Ring)
Affected Division(s): Legal
Implementation: Ongoing review of regulatory costs of rules

The bill requires a statement of estimated regulatory costs (SERC) to include the adverse impacts and regulatory costs estimated to occur five years after the effective date of a rule. If a portion of the rule is not fully implemented on the effective date of the rule, the SERC must include the adverse impacts and regulatory costs expected to occur within the first five years after implementation of the unimplemented portion of the rule.

HB 1033 – Information Technology Security

Effective July 1, 2016; Chapter 2016-138, L.O.F.; by State Affairs Committee; Government Operations Appropriations Subcommittee; Government Operations Subcommittee; Representatives Artiles, Broxson, Caldwell, Combee, Grant, Hill, Metz, Rehwinkel Vasilinda, Rooney, Stevenson and Taylor (SB 7050 by Appropriations Committee; and Governmental Oversight and Accountability Committee)
Affected Division(s): Administration; Information Systems; Legal; Accounting and Auditing
Implementation: Establish computer incident response team; establish protocol for cybersecurity training of new hires

This bill revises the duties of the Agency for State Technology (AST). Specifically, the bill directs the AST to develop guidelines, policies and processes for state agencies to:

- Mitigate security risks;
- Allow state agencies to contract with a private sector vendor to complete risk assessments;
- Establish computer security incident response teams;
- Establish information technology security incident reporting processes to respond timely to suspected technology security incidents; and
- Incorporate information obtained through detection and response activities into a state agency's response plan.

The bill directs state agencies to:

- Establish computer security incident response teams and comply with the applicable guidelines and processes establishedby the AST;
- Incorporate information learned from incident response activities into future plans;
- Implement risk assessment remediation plans recommended by the AST;
- Provide cybersecurity training to employees within 30 days of employment; and
- Provide incident and breach information to the AST and the Cybercrime Office of the FDLE within certain timeframes.

The bill revises the seven member AST Technology Advisory Council to require at least one member appointed by the Governor to be a cybersecurity expert.

The bill directs the AST, in collaboration with the Department of Management Services (DMS), to:

- Establish an information technology policy for all information technology-related state contracts, including state term contracts for information technology commodities, consultant services, and staff augmentation services;
- Evaluate vendor responses for state term contract solicitations and invitations to negotiate;
- Answer vendor questions on state term contract solicitations; and
- Ensure that the information technology policy developed herein is included in all solicitations and contracts which are administratively executed by the DMS.

The bill provides specified requirements for the information technology policy.

SB 1044 – Contraband Forfeiture

Effective July 1, 2016; Chapter 2016-179, L.O.F., by Fiscal Policy Committee; Criminal Justice Committee; and Senators Brandes, Negron, Clemens, Bean and Evers (HB 889 by Judiciary Committee; Criminal Justice Subcommittee; Representatives Metz, Caldwell, Mayfield, Renner and Steube)
Affected Division(s): Accounting and Auditing; Insurance Fraud; Legal
Implementation: Establish procedures for reviewing noncompliance reports submitted to DFS from FDLE and enforcing penalties associated with noncompliance of the Florida Contraband Forfeiture Act (civil fine of $5,000)

This bill amends the Florida Contraband Forfeiture Act to specify that a seizure may occur only if the property owner is arrested for a criminal offense that forms the basis for determining that the property is a contraband article under s. 932.701, F.S., or if one or more of the following circumstances apply:

- The owner of the property cannot be identified after a diligent search or the person in possession of the property denies ownership and the owner of the property cannot be identified by available means at the time of seizure;
- The owner of the property is a fugitive from justice or is deceased;
- An individual who does not own the property is arrested for the criminal offense that forms the basis for determining that the property is a contraband article and the owner of the property had actual knowledge of the criminal activity;

- The owner of the property agrees to be a confidential informant as defined in s. 914.28, F.S.; or
- The property is a monetary instrument.

If after a diligent effort by the seizing agency, the owner of the seized property cannot be found after 90 days, the property is deemed a contraband article and forfeited subject to the act.

The bill also:

- Prescribes procedures for judicial review of seizures;
- Specifies when a seizing agency must apply for a probable cause determination and the findings a court must make regarding probable cause;
- Provides that any forfeiture hold or lien on seized property must be released within 5 days if the court finds that the new requirements for seizing property were not met or that no probable cause existed for seizing the property;
- Requires proof beyond a reasonable doubt that the contraband article was being used in violation of the act;
- Provides that the seizing agency is responsible for any damage to the property and any storage fees or maintenance costs, unless the parties expressly agree otherwise in writing;
- Increases from $1,000 to $2,000 the reasonable attorney's fees and costs a claimant can receive if the court makes a finding of no probable cause at the close of the adversarial preliminary hearing;
- Provides that a $1,500 bond is payable to the claimant if the claimant prevails at the close of the forfeiture proceedings and any appeal, unless the parties expressly agree otherwise in writing;
- Requires that specified persons approve all settlement agreements concerning the seized property;
- Increases the minimum percentage of forfeiture proceeds from 15 percent to 25 percent that law enforcement agencies receiving over $15,000 annually in forfeiture funds must donate to certain enumerated programs;
- Requires that 70 percent of net proceeds from seizures of motor vehicles driven by specified DUI offenders first be applied to payment of court costs, fines, and fees and the remainder deposited in the General Revenue Fund for use by regional workforce boards in providing transportation services for participants of the welfare transition program;
- Provides reporting requirements for law enforcement agencies seizing property under the act; and
- Provides penalties for noncompliance with the reporting requirements, to be enforced by the Department of Financial Services.

HB 1061 – Nurse Licensure Compact

Effective December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first; Chapter 2016-139, L.O.F.; by Representatives Pigman, Campbell, Edwards, Renner and Sprowls (SB 1316 by Appropriations Committee and Senator Grimsley)
Affected Division(s): Risk Management

The bill authorizes Florida to enter the revised Nurse Licensure Compact (NLC), a multi-state agreement that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. The bill enacts the NLC into law, which is a prerequisite for joining the compact.

A nurse who is issued a multi-state license from a state that is a party to the NLC is permitted to practice in any state that is also a party to the compact. However, the nurse must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A party state may continue to issue a single-state license, authorizing practice only in that state.

Establishes that the executive director of the Board of Nursing, when serving as the state administrator of the Nurse Licensure Compact, and any administrator, officer, executive director, employee, or representative of the Interstate Commission of Nurse Licensure Compact Administrators are considered agents of the state for purposes of sovereign immunity.

SB 1104 – Service of Process on Financial Institutions

Effective January 1, 2017; Chapter 2017-180, L.O.F.; by Rules Committee; Banking and Insurance Committee; and Senator Flores (HB 897 by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representatives Stone, Mayfield and Williams)
Affected Division(s): Office of Financial Regulation

This bill amends the procedures for service of process upon a financial institution. The bill allows a financial institution to designate a place or registered agent with the Department of State as the sole location or agent for service of process. The location or agent must be available to receive service of process between 9 a.m. and 5 p.m. on business days, excluding federal and Florida holidays.

If service upon a financial institution cannot be made at the designated central location, or the institution has not designated a registered agent, service may be made upon the officer, director, or business agent of the financial institution at its principal place of business or any other branch, office, or place of business in the state.

Service of process required or authorized to be made by the Office of Financial Regulation may continue to be made through certified mail to any officer, director, or business agent of the financial institution at its principal place of business or any other branch, office, or place of business.

SB 1106 – International Trust Entities

Effective April 6, 2016; Chapter 2016-92, L.O.F.; by Appropriations Committee and Senator Flores (HB 1383 by Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; and Representative Moraitis)
Affected Division(s): Office of Financial Regulation

The bill revises provisions relating to the regulation of international banking activity by the Office of Financial Regulation (OFR). The bill provides the following changes:

- The OFR will delay the enforcement of the licensure requirements under s. 663.04(4), F.S., relating to an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the activities described in s. 663.0625, F.S. The delay in requirements is provided if the organization or entity meets certain regulatory requirements and provides assurances to the OFR. The moratorium would apply to the ITE, which is the offshore entity and the Florida organization or entity that is providing marketing and customer assistance on behalf of the ITE. The moratorium is repealed July 1, 2017.
- Defines the term, "international trust entity," to mean any international trust company, international business, international business organization, or affiliated or subsidiary entities that are licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.
- Provides the moratorium does not affect the OFR's authority to enforce other provisions of the Financial Institutions Codes.

SB 1170 – Health Plan Regulatory Administration

Effective July 1, 2016; Chapter 2016-194, L.O.F., by Appropriations Committee; Banking and Insurance Committee; and Senator Detert (HB 951 by Health and Human Services Committee; Insurance and Banking Subcommittee; and Representative Cummings)
Affected Division(s): Consumer Services; Office of Insurance Regulation

The bill revises provisions in the Insurance Code and other Florida Statutes that conflict with the federal Patient Protection and Affordable Care Act (PPACA) and provides other changes. These changes include:

- Eliminating provisions relating to the imposition of a preexisting condition exclusion since the federal act requires guaranteed issue of coverage and prohibits preexisting condition exclusions;
- Removing the requirement that insurers provide an outline of coverage for individual or family accident and health insurance policies since the federal act requires a summary of benefits and coverage for individual and small group coverage;
- Eliminating provisions relating to medical loss ratios since the federal act prescribes such standards and requires rebates if certain conditions are met;
- Eliminating the requirement for insurers to issue certificates of creditable coverage; and
- Providing technical and conforming changes.

The bill also provides that a not for profit corporation whose membership consists entirely of local governmental units that are authorized to enter into risk management consortiums under s. 112.08, F.S., is exempt from licensure by the Office of Insurance Regulation as a third-party administrator for self-insurance.

HB 1175 – Transparency in Health Care

Effective July 1, 2016; Chapter 2016-234, L.O.F.; by Health and Human Services Committee; Health Care Appropriations Subcommittee; Representatives Sprowls, Avila and Renner (SB 1496 by Appropriations Committee; and Senators Bradley and Gaetz)
Affected Division(s): Consumer Services; Office of Insurance Regulation

The bill increases the transparency and availability of health care pricing and quality of service information to enable consumers to make informed choices regarding health care treatment. The Agency for Health Care Administration (AHCA) is required to contract with a vendor to provide a consumer-friendly, Internet-based platform that allows a consumer to research the cost of health care services and procedures. The AHCA is to select the vendor through a competitive procurement process.

Services and procedures will be grouped by a descriptive service bundle to facilitate price comparisons provided in hospitals and ambulatory surgery centers (ASC). Quality indicators for services at the facilities will also be made available to the consumer to assist with health care decision making.

Hospitals and ASCs are required to provide access to the searchable service bundles on their website. Consumers will be presented with the estimated average payment received, excluding Medicaid and Medicare, and estimated payment ranges for each service bundle, by facility, facilities within geographic boundaries, and nationally. The facility must disclose that this information is an estimate of costs and that actual costs will be based on services actually provided to the patient. Additionally, the facility must disclose the facility's financial assistance policies and collection procedures.

The hospital and ASC must notify prospective patients that other health care providers may provide services in the facility and bill separately from the facility. Furthermore, the prospective patient must be informed that these healthcare providers may or may not participate with the same health insurers or health maintenance organizations (HMOs) as the facility. Accordingly, the patient should contact the applicable practitioners to determine the health insurers and HMOs with which the practitioner participates as a network or preferred provider. The facility must provide contact information for the practitioners.

Insurers and HMOs are required to provide on their websites a method for policy holders to estimate their cost-sharing responsibilities by service bundle based on the insured's policy and known plan usage. These estimates shall include both in-network and out-of-network providers. Insurers and HMOs are also required to provide hyperlinks on their website to the AHCA's performance outcome and financial data.

Consumers may request personalized good faith estimates of charges for nonemergency medical services from hospitals, ASCs, and health care practitioners relating to medical services provided in the hospital or ASC. These good faith estimates must be provided to the consumer within 7 days after the consumer's request. The bill provides for a daily fine for non-compliance by facilities and health care practitioners. The personalized estimate must also inform the patient about the health care provider's financial assistance policies and collection procedures.

A patient may also request an itemized bill or statement from the hospital and ASC after discharge. The requested itemized bill or statement must be provided within 7 days and be specific, written in plain language, and identify all services provided by the facility and any facility fees, as well as rates charged, amounts due, and the payment status. The itemized bill or statement must inform the patient to contact his or her insurer regarding the patient's share of costs. The facility must provide records to verify the bill or statement within 10 days after a request and respond to questions concerning the statement or bill.

The bill requires health insurers and HMOs that participate in the state group health insurance plan or Medicaid managed care to submit all claims data from Florida policy holders, with certain supplemental plan exceptions, to the vendor selected by the AHCA.

Each diagnostic-imaging center operated by a hospital but not located on the hospital grounds is required to post in the reception area prices charged to uninsured persons for the 50 most frequently provided services. The bill prohibits the AHCA from establishing an all-payor claims database or a comparable database without express legislative authority.

HB 1219 – Veterans' Employment

Effective October 1, 2016; Chapter 2016-102, L.O.F.; by Veteran and Military Affairs Subcommittee and Representatives Raburn, Eisnaugle, Harrell, Mayfield, Nunez, Raschein and Metz (SB 1538 by Military and Veterans Affairs, Space, and Domestic Security Committee; and Senator Evers)
Affected Division(s): Administration
Implementation: Develop and implement a written veterans' recruitment plan and maintain statistics of hires for submittal to DMS

The bill requires each state agency and authorizes each political subdivision of the state to develop and implement a written veterans recruitment plan that establishes annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce. Each veterans' recruitment plan must apply to veterans and their family members who are entitled to veterans' preference in appointment and retention in public employment pursuant to s. 295.07(1), F.S.

The Department of Management Services (DMS) must annually collect and publish on its website and include in its annual workforce report statistical data for each state agency on the following:

- The number of persons who claim veterans' preference;
- The number of persons who are hired through the veterans' preference; and
- The number of persons who are hired as a result of the veterans' recruitment plan.

HB 1233 – Federal Home Loan Banks

Effective July 1, 2016; Chapter 2016-144, L.O.F.; by Insurance and Banking Subcommittee; and Representative Stevenson, Mayfield and Williams (SB 1490 by Banking and Insurance Committee; and Senators Garcia and Soto)
Affected Division(s): Office of Financial Regulation

The bill clarifies that the Office of Financial Regulation (OFR), is not prevented from providing otherwise confidential information to any Federal Home Loan Bank (FHLB) regarding its member institutions pursuant to an information-sharing agreement. The FHLB system is a government-sponsored enterprise designed to support residential mortgage lending and community investment at the local level by providing primary mortgage liquidity (direct loans) to its members. Members include thrift institutions, commercial banks, credit unions, insurance companies, and certified community development financial institutions. The OFR is required to execute an information-sharing agreement with the FHLBs by August 1, 2016.

SB 1274 – Limited Sinkhole Coverage Insurance

Effective July 1, 2016; Chapter 2016-197, L.O.F.; by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Latvala (HB 1327 by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representative Ingoglia)
Affected Division(s): Consumer Services; Rehabilitation and Liquidation; Office of Insurance Regulation

The bill creates s. 627.7151, F.S., which allows insurers to offer a new type of personal lines residential sinkhole insurance coverage. Limited sinkhole coverage provides coverage for "sinkhole loss," which is structural damage to the covered building, including the foundation, caused by sinkhole activity. Limited sinkhole coverage would also be subject to the statutory requirements for sinkhole insurance in ss. 627.706-627.7074, F.S., with the following exceptions:

- Coverage may be limited to repairs to stabilize the building and repair the foundation;
- Coverage does not have to include contents replacement or coverage for additional living expenses;
- Deductibles may be in an amount agreed to by the insured and insurer;
- Policy limits may be in an amount agreed to by the insured and insurer, provided policy limits below $50,000 are not allowed unless that amount exceeds full replacement cost of the property;
- A notice signed by the applicant is required that the applicant has read and understands the coverages of limited sinkhole coverage, including when insuring for less than replacement cost or agreeing to a deductible greater than allowed in s. 627.706(1)(b), F.S.
- If a loss exceeds the policy limits, the insurer must agree to pay above policy limits to complete the repair or pay a contractor policy limits after the policyholder has signed a contract to repair. If the insured obtains a lower-cost alternative repair recommendation, the insurer must pay up to policy limits to complete the lower-cost alternative repair.
- Insurers are allowed to establish limited sinkhole policy forms not subject to filing with and approval by the Office of Insurance Regulation (OIR);

- Until October 1, 2019, insurers may file rates for limited sinkhole coverage that are not subject to the filing and review requirements of s. 627.062(2)(a) and (f), F.S.

The bill prohibits Citizens Property Insurance Corporation for offering limited sinkhole coverage and establishes surplus requirements of $7.5 million for new and existing insurers that solely transact limited sinkhole coverage insurance. Insurers providing limited sinkhole coverage must notify the OIR at least 30 days prior to offering the coverage in the state. Such insurers must file a plan of operation and financial projections or revisions to such plan, as applicable, with the office.

SB 1386 – Insurance Agents

Effective April 8, 2016; Chapter 2016-202, L.O.F.; by Rules Committee; Banking and Insurance Committee; and Senator Richter (HB 1303 by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representatives Jones and Stark)
Affected Division(s): Agent and Agency Services; Funeral, Cemetery, and Consumer Services

The bill amends s. 626.593, F.S., to allow health insurance agents providing services on an individual health plan to contract with the insured for an additional service fee above the commission allowed under Chapter 627. If a contract for additional fee or compensation is agreed to then the agent must rebate to the insured any commissions paid by an insurer to the agent.

The bill also amends s. 626.785, F.S., to increase the allowable amount of coverage an insurance agent is able to sell for insurance policies covering burial related expenses. The bill increases the policy coverage maximum to $21,000, plus an annual increase based on the Consumer Price Index (CPI), beginning with the 2016 CPI. The bill will allow individuals, securing preneed contracts by means of insurance policies, to obtain a greater amount of coverage for burial services and merchandise.

SB 1402 – Ratification of Workers' Compensation Health Care Provider Reimbursement Manual[19]

Effective July 1, 2016; Chapter 2016-203, L.O.F.; by Senator Simmons (HB 7073 by Rulemaking Oversight and Repeal Subcommittee; and Representative Ray)
Affected Division(s): Legal; Workers' Compensation; Risk Management

Florida's workers' compensation law requires that the provider reimbursement manuals setting maximum reimbursement rates for medical services must be updated every 3 years. Since the 2015 Legislature adjourned, the Department of Financial Services (DFS) has adopted amendments to the rule incorporating by reference the Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition (2015 Edition). The 2015 Edition sets out the policies, guidelines, codes, and maximum reimbursement allowances for services and supplies furnished by health care providers under the workers' compensation statutes. The 2015

[19] DFS initiated legislation.

Edition adopted as part of Rule 69L-7.020, F.A.C., *Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition* (rule), on July 16, 2015, and submitted for ratification on November 3, 2015.

The Statement of Estimated Regulatory Costs developed in conjunction with the rule shows that it has a specific, adverse economic effect, or increases regulatory costs, exceeding $1 million over the first 5 years the rule is in effect. Accordingly, the rule must be ratified by the Legislature before it may go into effect. The bill ratifies the rule. The scope of the bill is limited to this rulemaking condition and does not adopt the substance of any rule into the statutes.

The bill will have a significant negative fiscal impact to state expenditures from the State Risk Management Trust Fund (SRMTF) within the DFS. The DFS Division of Risk Management estimates an increase in workers' compensation expenses for the division by $2.1 million in FY 2016-17, $2.1 million in FY 2017-18, and $2.2 million in FY 2018-19.

The impact to local government and the private sector is indeterminate. However, local governments and private employers responsible for paying workers' compensation claims or obtaining workers' compensation insurance will incur increased costs due to the increase in the maximum reimbursements for providers.

SB 1416 – Public Records/Own-risk and Solvency Assessment/ Corporate Governance Annual Disclosure

Effective October 1, 2016; Chapter 2016-205, L.O.F., by Governmental Oversight and Accountability; Banking and Insurance Committee; and Senator Simmons (HB 1165 by State Affairs Committee; Insurance and Banking Subcommittee; and Representative Hager)
Affected Division(s): Office of Insurance Regulation; Rehabilitation and Liquidation

The bill creates a public records exemption to incorporate the confidentiality provisions of two National Association of Insurance Commissioners' (NAIC) model acts. These two model acts provide state insurance regulators with additional solvency regulatory tools – the Own Risk and Solvency Assessment (ORSA) and the Corporate Governance Annual Disclosure. Both model acts require that states must keep these documents confidential. The related bill, SB 1422, Enrolled, implements the requirements of the model acts in the Insurance Code.

Generally, the ORSA model act requires certain insurers to conduct an ORSA and submit an ORSA summary report to the Office of Insurance Regulation (OIR). The Corporate Governance Annual Disclosure (Corporate Governance) Model Act and corresponding Corporate Governance Annual Disclosure Model Regulations, require insurers to disclose their corporate governance structure, procedures, and practices to the OIR on an annual basis.

The bill provides that, except for information obtained by the OIR, which would otherwise be available for public inspection, the following information held by the OIR is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

- An ORSA summary report, a substantially similar ORSA report, and supporting documents submitted pursuant to s. 628.8015, F.S.

- A corporate governance annual disclosure and supporting documents submitted pursuant to s. 628.8015, F.S.

The bill states that it is a public necessity to protect such information because it contains sensitive and strategic financial information and internal practices about an insurer or insurer group.

The bill provides for repeal of the exemption on October 2, 2021, unless reviewed and saved from repeal by the Legislature pursuant to the Open Government Sunset Review Act.

SB 1422 – Insurer Regulatory Reporting

Effective October 1, 2016; Chapter 2016-206, L.O.F., by Appropriations Committee; Banking and Insurance Committee; and Senator Simmons (HB 1163 by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Representative Hager)
Affected Division(s): Office of Insurance Regulation; Rehabilitation and Liquidation

The bill revises provisions within the Insurance Code relating to solvency requirements and regulatory oversight of insurers by the Office of Insurance Regulation (OIR). The bill implements the Risk Management and Own Risk and Solvency Assessment (ORSA) Model Act and the Corporate Governance Annual Disclosure (Corporate Governance) Model Act. These model acts originated from the National Association of Insurance Commissioners' Solvency Modernization Initiative.

The ORSA model act requires insurers to analyze all reasonable foreseeable and relevant material risks potentially affecting their ability to meet policyholder obligations. This will provide the OIR with an effective early warning mechanism and provides a group-level perspective on risk and capital. The Corporate Governance model act will provide the OIR with a detailed narrative describing governance practices to promote market stability and to deter unethical behavior.

HB 5003 – Implementing the 2016-2017 General Appropriations Act

Effective July 1, 2016, Chapter 2016-62, L.O.F.; by Appropriations Committee; and Rep. Corcoran (SB 2502 by Appropriations Committee)
Affected Division(s): Accounting and Auditing
Implementation: Appointment of Executive Steering Committee

Section 79 defines the components of the Florida Accounting Information Resource subsystem (FLAIR) and Cash Management System (CMS) included in the Department of Financial Services Planning Accounting and Ledger Management (PALM) system. This section also provides the executive steering committee (ESC) membership and the process for ESC meetings and decisions.

HB 7003 – Individuals with Disabilities/Financial Literacy Program

Effective July 1, 2016, except as otherwise provided; Chapter 2016-3, L.O.F.; by Government Operations Appropriations Subcommittee; State Affairs Committee; and Representataives Caldwell, Ahern, Campbell and Pilon (SB 7010 by Fiscal Policy Committee; Governmental Oversight and Accountability Committee; and Senators Gardiner, Abruzzo, Altman, Bean, Benacquisto, Bradley, Brandes, Braynon, Bullard, Clemens, Dean, Detert, Evers, Flores, Gaetz, Galvano, Garcia, Gibson, Hays, Hukill, Hutson, Joyner, Lee, Montford, Negron, Richter, Ring, Sachs, Simmons, Simpson, Smith, Sobel, Soto, Stargel and Thompson)
Affected Division(s): Administration; Consumer Services; Information Systems; Legal; Treasury
Implementation: Update EEO policy; Establish Financial Literacy Program for Individuals with Developmental Disabilities; Establish clearinghouse of information regarding program on DFS website

This bill addresses the employment and economic independence of individuals with disabilities. Specifically, this bill:

- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services (DFS) to provide information and outreach to individuals and employers;
- Effective October 1, 2016, DFS shall establish a clearinghouse for information regarding the program on its website, publish a brochure describing the program;
- Within 90 days after establishment of the website clearinghouse and brochures being published each bank, savings association, and savings bank that is a qualified public depository mast make the brochures available as prescribed;
- Modifies the state's equal employment policy to provide enhanced executive branch agency employment opportunities for individuals who have a disability;
- Creates the Employment First Act requiring an interagency cooperative agreement among specified state agencies and organizations to ensure a long-term commitment to improve employment for individuals who have a disability; and
- Creates the Florida Unique Abilities Partner Program to recognize businesses that employ or support the independence of individuals who have a disability.

The bill makes several appropriations to implement the programs and activities required under the bill. Specifically, the bill:

- Appropriates $69,570 in recurring funds from the Insurance Regulatory Trust Fund to the DFS to implement the Financial Literacy Program for Individuals with Developmental Disabilities;
- Appropriates $138,692 in recurring funds and $26,264 in nonrecurring funds from the State Personnel System Trust Fund to the Department of Management Services (DMS), and authorizes two FTE positions for the DMS to implement the provisions relating to enhancing executive branch agency employment opportunities;
- Appropriates the recurring sums of $74,234 from the General Revenue Fund and $64,458 from trust funds and the nonrecurring sums of $14,051 from the General Revenue Fund and $12,213 from trust funds to Administered Funds for distribution among agencies for the increase in the human resource assessment; and

- Appropriates $100,000 in recurring and $100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to the Department of Economic Opportunity to implement the Florida Unique Abilities Partner program.

SB 7012 – Death Benefits Under the Florida Retirement System

Effective July 1, 2016; Chapter 2016-213, L.O.F.; by Governmental Oversight and Accountability Committee; and Senators Gardiner, Abruzzo, Altman, Bean, Benacquisto, Bradley, Brandes, Braynon, Bullard, Clemens, Dean, Detert, Diaz de la Portilla, Evers, Flores, Gaetz, Galvano, Garcia, Gibson, Grimsley, Hays, Hukill, Hutson, Joyner, Latvala, Lee, Legg, Margolis, Montford, Negron, Richter, Ring, Sachs, Simmons, Simpson, Smith, Sobel, Soto, Stargel, and Thompson (HB 7017 by State Affairs Committee; Appropriations Committee; and Representatives Caldwell, Artiles, Baxley, Perry, Peters, and Rogers
Affected Division(s): Administration

This bill primarily makes two changes to the Florida Retirement System (FRS). First, the bill increases the monthly survivor benefits available to the spouses and children of FRS pension plan members in the Special Risk Class when killed in the line of duty from 50 percent of the member's monthly salary at the time of death to 100 percent of the member's monthly salary at the time of death. These new benefits are funded through additional employer-paid contributions relating to the FRS pension plan.

Second, the bill permits the surviving spouse or children of an investment plan member in the Special Risk Class when killed in the line of duty to opt into the FRS investment plan survivor benefits program in lieu of receiving normal retirement benefits under the FRS investment plan. By participating in the survivor benefits program, the surviving spouse and children are eligible to receive annuitized benefits much like the survivor benefits (described above) afforded to Special Risk Class members of the FRS pension plan. The investment plan survivor benefits program is funded by additional employer-paid contributions to the survivor benefits account of the FRS Trust Fund.

SB 7028 – State Board of Administration[20]

Effective July 1, 2016; Chapter 2016-215, L.O.F.; by Governmental Oversight and Accountability Committee; and Senator Sobel (HB 4049 by Representatives Combee and Wood)
Affected Division(s): Cabinet

This bill encourages the State Board of Administration (SBA) to take actions in support of the MacBride Principles in Northern Ireland. The MacBride Principles means the objectives for companies operating in Northern Ireland to provide fair employment opportunities to individuals from underrepresented religious groups in the workforce.

[20] DFS initiated legislation.

Specifically, the bill encourages the SBA to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland. For those companies identified, the SBA is encouraged to:

- Notify the company that the SBA supports the MacBride Principles;
- Inquire regarding actions taken by the company in support of the MacBride Principles;
- Encourage the company that has not adopted the MacBride Principles to make all lawful efforts to implement similar fair employment practices; and
- Support the adoption of the MacBride Principles in exercising its proxy voting authority.

The bill provides that the SBA is not liable for, and a cause of action does not arise from, any action or inaction by the SBA in the administration of these provisions.

Also, the bill deletes one of the conditions that trigger the expiration of the SBA's duty to scrutinize companies and to assemble the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. The SBA will no longer be required to consider statements from the United States Congress or the President expressed in legislation, executive order, or written certification from the President to Congress, that mandatory divestment of companies with scrutinized business operations in Iran interfere with the conduct of U.S. foreign policy. The State Board of Administration must monitor certain events and report occurrence of these events to its trustees.

The bill clarifies the duties of the SBA relating to:

- The creation and maintenance of the various lists of scrutinized companies;
- The divestment of certain investments relating to those scrutinized companies; and
- The reporting of the various lists of scrutinized companies and specified criteria of the Florida Retirement System.

HB 7029 – School Choice

Effective July 1, 2016; Chapter 2016-237, L.O.F.; by Education Committee; Education Appropriations Subcommittee; Choice and Innovation Subcommittee; and Representatives Cortes (B), Diaz (M), Adkins, Artiles and Fresen (SB 1166 by Appropriations Committee and Senator Gaetz)
Implementation: Appointment to the Capital Outlay Oversight Committee

The bill amends numerous sections of the education statutes pertaining to postsecondary education performance funding, K-12 education policy and funding, school choice, and school construction.

The bill amends the process and criteria for charter schools capital outlay funding. Chief Financial Officer has an appointment to the Capital Outlay Oversight Committee. The appointee must be a licensed certified public accountant. *(see enrolled bill language beginning on line 2238)*

SB 7030 – OGSR/Competitive Solicitation or Negotiation Strategies

Effective October 1, 2016; Chapter 2016-49, L.O.F.; by Governmental Oversight and Accountability Committee (HB 7067 by Government Operations Subcommittee and Representative Santiago)
Division(s) Affected: Accounting and Auditing; Legal

This bill continues the public records and public meetings exemptions used by governmental entities during competitive solicitations by removing the October 2, 2016, repeal date in each law. This bill is the result of an Open Government Sunset Review (OGSR) by the Governmental Oversight and Accountability Committee of a public records exemption in s. 119.071(1)(b), F.S., and a public meetings and records exemption in s. 286.0113(2), F.S.

Section 119.071(1)(b), F.S., exempts from public disclosure sealed responses to a competitive solicitation. Vendors' sealed responses are exempt until a governmental entity notices its intended decision or 30 days after the governmental entity unseals the responses. Sealed responses to a competitive solicitation may be exempt under certain circumstances if a competitive solicitation is withdrawn and reissued; however, such records remain exempt for no longer than 12 months after the governmental entity rejects the responses to the initial competitive solicitation.

A governmental entity's negotiation team's strategy meetings and its team meetings with vendors may be closed to the public, pursuant to s. 286.0113(2), F.S. Transcripts of these meetings and any records presented during such meetings are exempt from public disclosure. All meeting records become public when the governmental entity notices its intended decision or 30 days after the governmental entity unseals the vendors' responses. If a competitive solicitation is withdrawn and reissued, the meeting records remain exempt under certain circumstances; however, the exemption expires 12 months after the governmental entity rejects the vendors' responses to the initial competitive solicitation.

HB 7035 – OGSR/Office of Financial Regulation

Effective October 1, 2016; Chapter 2016-28, L.O.F.; by Government Operations Subcommittee and Representative Fant (SB 7032 by Banking and Insurance Committee)
Affected Division(s): Office of Financial Regulation

The bill reenacts the public records exemption that makes the following information held by the Office of Financial Regulation (OFR) before, on, or after July 1, 2011, confidential and exempt from public-records requirements:

- Information received from another state or federal regulatory, administrative, or criminal justice agency that is otherwise confidential or exempt pursuant to the laws of that state or pursuant to federal law.
- Information that is received or developed by the OFR as part of a joint or multiagency investigation or examination.

The OFR has regulatory oversight of financial institutions, securities dealers, investment advisers, mortgage loan originators, money services businesses, retail installment sellers,

consumer finance companies, debt collectors, and other financial service providers. The OFR also has the authority to conduct examinations and investigations.
Other states and federal agencies also have regulatory oversight of many of these entities. In addition, many of the regulated entities operate in multiple states, making interstate cooperation essential to achieving comprehensive, efficient, and effective regulatory oversight.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2016, unless reenacted by the Legislature. The bill eliminates the scheduled repeal of the public records exemption. As a result, this information will continue to be confidential and exempt from public disclosure. The continuation of this exemption will allow the OFR to obtain information that could assist it in pursuing violations of law under its jurisdiction and to participate in joint or multiagency investigations and examinations. Without this exemption, the effective and efficient administration of the regulatory programs administered by the OFR would be significantly impaired.