2006 Legislative Summary

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INTRODUCTION

This document has been compiled to offer an overview of the legislation passed by the Florida Legislature during the 2006 Regular Legislative Session that affects the Department of Financial Services. **At the time this publication was finalized, most of the legislation was pending the Governor's approval; therefore, please verify that the legislation has been enacted into law and has not received a veto by the Governor. This document and the status of bill actions by the Governor will be updated on the DFS intranet.** 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 or SUNCOM 293-2863.

Cover Photos: top – Ivan damage to home, Pensacola; middle – Hurricane House, St. Lucie County; and bottom – Wilma damage to mobile home, Ft. Lauderdale.

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2006 DFS Budget Items Funded in the General Appropriations Act (HB 5001)

Communication Equipment and Crime Analysis Software	$194,623
Expand Consumer Outreach Efforts with Settlement Funds	$909,970
Licensing System for Funeral and Cemetery Regulation	$1,192,738
Three Positions for Workload in Accounting and Auditing	$215,061
Upgrade Of Electrical and Mechanical Systems in Data Center	$400,000
Fraud and Fire Marshal – Vehicle Replacement (30 Cars)	$591,000
Network Management Software for Data Center	$68,000
Fraud and Fire Marshal – 800 Mhz System Maintenance	$39,700
Accounting and Auditing (1 FTE for Article V)	$72,246
Accounting and Auditing (Salary package)	$229,500
~~Law Enforcement Pay Package (Legislature Funded Fraud Only)~~ **VETOED**	~~$599,571~~
Aspire (Contract Costs)*	$5,969,967
Aspire (Maintenance)	$2,777,156
Project Aspire Feasibility Study (Not Requested By DFS)	$566,000
Domestic Security (Funds from Feds)	$11,210,738

~~Additionally, in the Criminal Justice and Corrections budget, $300,000 and 4 FTEs were appropriated for PIP prosecutors.~~ - **VETOED**

*Does not include debt service payments.

Department of Financial Services

Priority Legislation

HM 541 – Memorial – National Catastrophe Insurance Program:

Chapter Law #2006-___, Laws of Florida; by Representative Ross.

This legislation urges the United States Congress to:

- Provide consumers with a private market residential insurance program with all-perils protection;
- Promote personal responsibility through mitigation; provide individuals with the ability to manage their own catastrophe savings accounts that accumulate on a tax-advantaged basis; and create tax-deferred insurance company catastrophe reserves to benefit the policyholder;
- Enhance local government's role of establishing and maintaining effective building codes, mitigation, education and land use management; and create state or multi-state region risk spreading/catastrophe financing facilities;
- Create a National Catastrophe Fund that provides a quantifiable level of risk management and financing for mega-catastrophes.

HB 561 – Insurance Fraud:

Chapter Law #2006-305, Laws of Florida; Effective July 1, 2006; by Representative Rivera.

This bill addresses issues relating to insurance fraud.

- This bill requires crash reports to contain certain information and creates a rebuttable presumption that only those passengers listed on the police report were actually involved in the automobile accident.
- The bill provides extra fines (of $180) to those who get a suspended driver's license for a conviction of either patient brokering, solicitation, or for participation in a staged crash.
- The bill requires every medical clinic to post signs indicating that the Department of Financial Services (department) pay rewards of up to $25,000 for information leading to the arrest or conviction of persons committing specific crimes.
- The bill requires insurers to send a Fraud Advisory Notice to persons who filed a claim for reimbursement.
- The bill also requires medical or clinic directors not to refer a patient to their own clinic if the clinic performs specified medical tests, including MRI, static radiographs, computed tomography and positron emission.
- The bill removes conflicting legislation and emphasizes that a violation of a stop work order constitutes a felony of the third degree.
- The bill clarifies that it is unlawful for employers not to secure worker's compensation coverage.
- The bill expands the definition of "kickback" to mean a payment by or on behalf of a provider of health care services or items to any person as incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense.
- The bill makes any willful violation of the Florida Insurance Code a second degree misdemeanor.

- The bill amends the general penalty provision in s. 624.15, F.S., to include any willful violation of an administrative rule of the DFS, the Office of Insurance Regulation (OIR), or the Financial Services Commission (Commission).
- The bill provides that a willful violation of an emergency rule or order of the department, OIR, or the Financial Services Commission by someone who is not eligible to engage in business in accordant to the Florida Insurance Code is a third degree felony.
- The bill provides that no person may hold herself to be an insurance agent unless she is licensed by the department and appointed by an appropriate entity.
- The bill clarifies that a person who resides in Florida and procures insurance from another state or county, or independently procured coverage, must file with the OIR.
- The bill provides that insurers must timely submit a final acceptable anti-fraud plan or anti-fraud investigative unit description, and allow the department, OIR, or commission to impose fines if insurers fail to submit an acceptable anti-fraud plan.
- The bill creates a forfeiture account in the Insurance Regulatory Trust into which proceeds derived from the department's criminal and forfeiture proceedings are to be deposited.
- The bill requires the Financial Services Commission to notify insureds of their rights to receive personal injury protection, and to deliver this notification to an insured within 21 days of receiving notice from the insured of an automobile accident involving personal injury to the insured.
- The bill makes it a second degree felony to plan or organize an intentional motor vehicle crash for the purpose of making a tort claim.
- The bill makes it a third degree felony to create, market, or present a false or fraudulent insurance card.
- The bill exempts law enforcement officers from penalties for giving false or fictitious information when they are engaged in undercover police investigations.
- The bill adds that it is a third degree felony to solicit, or receive any kind of bribe in cash or in kind to engage in split-fee arrangements in any form whatsoever in return for the acceptance or acknowledgment of treatment from a health care provider or facility.
- The bill makes falsely assuming the identity of an officer of the department a third degree felony under s. 843.08, F.S.

HB 825 – Financial Literacy Council: Chapter Law #2006-140, Laws of Florida; Effective July 1, 2006; by Representative Altman.

The bill creates a Financial Literacy Council as an adjunct to the Department of Financial Services. The purpose of the Council is to study and promote initiatives that educate young people, seniors, working adults and small businesses, about personal financial issues, including establishing money management skills, making informed investment choices, planning for retirement, avoiding financial scams and defending against identity fraud.

The Council's membership includes:

- Six members with experience in various areas of the financial industry.
- One member who is not employed by, and is not a representative of the financial industry.
- At least one member who is chosen from a list of three persons submitted to the CFO by a senior advocacy group.
- At least one member who is chosen from a list of the persons submitted to the CFO by the Florida Council on Economic Education.

The bill also requires the Council to submit an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives on its activities and expenditures, and appropriates funds to the Council for its operations, contingent on the Council receiving private contributions or grants. The bill repeals the Council on December 31, 2011.

HB 1325 – Methamphetamine: Chapter Law #2006-306, Laws of Florida; Effective July 1, 2006; by Representative Culp.

Chapter 893, F.S., sets forth criminal penalties for the illegal sale or manufacture of meth and other controlled substances.

The bill extends criminal penalties to include firefighters and other emergency response personnel injured or killed while responding to a meth lab (third-degree felony if injured; second-degree felony if killed or severely injured).

The bill prevents first responders from having life or health insurance canceled or non-renewed because they have tested positive for meth as a result of performing their job.

The bill adds the arrest of parents or legal custodians on charges of manufacturing, processing, disposing of, or storing, any substances in violation of chapter 893, F.S., to the list of factors which the Department of Children and Families may consider in determining whether a dependency case is high-risk.

The bill requires a court to order pretrial detention of a defendant who is charged with manufacturing a controlled substance, if the court finds that there is a substantial probability that the defendant committed the offense and finds that there are no conditions of release reasonably sufficient to protect the community.

SB 1980 – Property and Casualty Insurance: Chapter Law #2006-12, Laws of Florida; Effective May 16, 2006, except as otherwise provided; by Senator Garcia.

Funding the 2005 Deficit of Citizens Property Insurance Corporation

The bill appropriates $715 million from General Revenue to Citizens Property Insurance Corporation ("Citizens") to offset the 2005 deficit, estimated to be about $1.73 billion. This appropriation is expected to reduce an estimated $920 million regular assessment against property insurers to about $205 million, and thereby reduce an estimated average

11 percent premium surcharge to about 2.5 percent for property insurance policyholders in the state (including Citizens policyholders). The bill also requires that the remaining estimated $800 million of the deficit, which would require about an 8 percent emergency assessment on policyholders if billed in one year, must be amortized and collected from policyholders over a 10-year period.

Citizens and the Office of Insurance Regulation (OIR) are expected to levy the regular assessment (about $205 million due to the appropriation) for the 2005 deficit sometime this summer (2006), after which insurers may make rate filings to recoup this assessment, most of which are likely to become effective around January, 2007, and later. The bill requires that the premium notice sent to policyholders identify the dollar amount of the surcharge for the assessment by Citizens, and the dollar reduction in the surcharge due to the appropriation by the Florida Legislature.

There will be about $800 million remaining of the $1.73 billion deficit for 2005, which will be paid by pre-event notes (debt) secured by Citizens, and funded by multi-year emergency assessments on all property insurance policyholders in Florida. The bill provides that this amount (which would be about an 8 percent assessment if collected in one year) must be amortized and collected over a ten-year period.

Florida Hurricane Catastrophe Fund (FHCF)

The bill requires a 25 percent rapid cash build-up factor in the premiums paid by insurers for coverage from the FHCF, which is the state fund that reimburses most insurers for 90 percent of their residential hurricane losses above each insurer's retention, up to each insurer's share of a $15 billion cap on total annual payments. The State Board of Administration (SBA), the agency responsible for the operation of the FHCF, recently approved a 25 percent rapid cash build-up factor for the 2006-07 contract year premiums (that the bill requires each year), which is expected to increase total FHCF premiums from about $800 million to $1.0 billion. On average, this is estimated to increase residential property insurance premiums about 2.7 percent. But, this extra $200 million may be used by the SBA to offset the current FHCF deficit, estimated to be about $1.3 billion, which will reduce assessments levied against most types of property and casualty insurance policyholders (including auto) to fund a bond issue to cover this deficit.

The bill allows limited apportionment companies (i.e., companies with $25 million in surplus or less), for this year only, to buy coverage from the FHCF that would reimburse the insurer for up to $10 million of its losses from each of two hurricanes above the insurer's retention, or the amount of hurricane losses the insurer must pay before triggering coverage from the FHCF, which is set at 30 percent of the company's surplus. The insurer must pay a rate of 50 percent of the coverage selected, i.e., $5 million for the maximum $10 million in coverage, which is reinstated at no additional charge for a second hurricane. This one-year option is intended to address the current problem of private reinsurance either being unavailable or at an extremely high price, especially for small (low surplus) insurers that depend heavily on reinsurance. In total, limited apportionment companies write about 30 percent of the homeowners policies in Florida. This layer of coverage is in addition to the coverage that insurers currently purchase from

the FHCF and is well below the current retention. But, the insurer must pay a premium (50 percent of the coverage amount) that is much greater than the premium for the current layer of FHCF coverage (about 7 percent of the coverage amount). Given the low retention, this does expose the FHCF to a significant chance of loss if there is a hurricane that impacts limited apportionment companies that buy this coverage, but this may prevent limited apportionment companies from non-renewing policyholders who would otherwise end up in Citizens and increase Citizens' exposure and potential deficit assessment liability. It is important to note that the bill also substantially eliminates the primary benefit that limited apportionment companies receive under current law, which is being exempt from paying their market share of the amount of a regular assessment by Citizens for the high-risk account in excess of $50 million, explained in the Citizens section, below.

The bill's other changes to the FHCF:

- Deletes the requirement that bonds of the FHCF be validated pursuant to chapter 75, F.S., and that the validation be appealed to the Supreme Court. The SBA met this requirement in 1996 and deleting the language removes any ambiguity that it must be done again.
- Clarifies the premiums that are subject to assessment for funding bond obligations and the procedures for insurers to collect and transmit these assessments.
- Allows Citizens and the SBA to determine the method of providing coverage for policies assumed by Citizens of insolvent insurers (for one year only).
- Clarifies that the "cash balance" of the FHCF for determining the annual growth factor for the annual $15 billion limit of coverage refers to the FHCF balance as of December 31, as defined by rule.
- Specifies that the FHCF does not reimburse insurers for claims for "loss of rent or rental income," rather than "loss of use," to clarify that the FHCF reimburses insurers for additional living expenses paid under their policies.
- Clarifies that any annual assessments that are necessary to fund bonding obligations continue "for as long as" (rather than "until") the revenue bonds are outstanding.

Insurance Capital Build-Up Incentive Program

The bill establishes the Insurance Capital Build-Up Incentive Program, which provides for the lending of state funds in the form of "surplus notes" to new or existing authorized residential property insurers, under specified conditions.

- The amount of the surplus note may not exceed $25 million or 20 percent of total funds available for the program. A total of $250 million is appropriated in non-recurring funds from General Revenue to the State Board of Administration (SBA) for this program.
- The insurer must contribute new capital to its surplus at least equal to the surplus note and must apply to the SBA (headed by the Governor, Attorney General, and Chief Financial Officer) by July 1, 2006.
- If the insurer applies after July 1, 2006, but before June 1, 2007, the surplus note is limited to one-half of the new capital contributed by the insurer. No applications are permitted beyond June 1, 2007.

- The combination of surplus, new capital, and the surplus note must be at least $50 million. That is, after obtaining the surplus note, the insurer must have a surplus of at least $50 million.
- The surplus note must be repayable to the state, with a 20-year term, at the 10-year Treasury Bond interest rate (with interest-only payments for the first 3 years). The Insurance Commissioner must approve payments on the surplus note, unless he determines the payment would substantially impair the financial condition of the insurer.
- The insurer must commit to meeting a minimum writing ratio of net written premium to surplus of at least 2:1 for the term of the surplus note. The written premium must be for residential property insurance in Florida, covering the peril of wind.
- The SBA may approve issuance of a surplus note to an applicant, unless the SBA determines that the financial condition of the insurer and its business plan place an unreasonably high level of financial risk to the state of nonpayment in full of the interest and principal. The SBA must consult with the Office of Insurance Regulation and may contract with independent financial and insurance consultants in making this determination.
- If the total amount of surplus notes requested exceeds the funds available, the SBA may prioritize insurers based on financial strength, the viability of the proposed business plan for writing additional residential property insurance in the state, and the effect on competition in the market.
- The state of Florida would be a preferred, "class 3" creditor if the insurer becomes insolvent, being placed first in line after costs of the receiver and claims to policyholders.

Hurricane Loss Mitigation

The bill establishes the Florida Comprehensive Hurricane Damage Mitigation Program within the Department of Financial Services. The program includes the following provisions:

- Provides for free inspections of site-built, residential property, to determine what mitigation measures are needed to reduce vulnerability to hurricane damage, performed by qualified inspectors under contract with the department, pursuant to a request for proposals.
- Home inspections must include a rating scale specifying the current and projected wind resistance rating, and insurer-specific information on insurance credits and discounts.
- Provides for 50 percent matching grants to encourage single-family (and up to four-family), site-built homes to retrofit to reduce vulnerability to hurricane damage. Eligible property must have a homestead exemption, an insured value of $500,000 or less, and have undergone an acceptable hurricane mitigation inspection. Grants are limited to $5,000 (for up to a $10,000 project), with up to 100 percent grants ($5,000) for low-income homeowners, as defined. The bill specifies the types of improvements (opening protection, roof covering, etc.) for which grants may be used.

- Matching fund grants are also made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built residential property.
- An Advisory Council to the department must be appointed for the program, including representatives of lending institutions, residential property insurers, and home builders, a faculty member of a state university, two members of the House of Representatives, two members of the Senate, the chief executive officer of the Federal Alliance for Safe Homes, the senior officer of the Florida Hurricane Catastrophe Fund, the executive director of Citizens, and the director of the Division of Emergency Management of the Department of Community Affairs.
- The department must adopt rules for the program and establish priorities for grants based on objective criteria that gives priority to reducing the state's probable maximum loss from hurricanes, while also establishing priorities based on the insured value of the dwelling, whether or not the dwelling is insured by Citizens, and whether the area under consideration has sufficient resources and the ability to perform the retrofitting required.
- Appropriates $250 million of non-recurring funds from General Revenue to the department for this program. The unexpended balance reverts after three years (June 30, 2009).
- The program does not create an entitlement or obligate the state to pay for inspection or retrofitting of residential property and implementation is subject to annual legislative appropriations.

The bill also creates the Manufactured Housing and Mobile Home Mitigation and Enhancement Program, which will provide grants for manufactured home communities and mobile home parks, administered by Tallahassee Community College. The bill appropriates $7.5 million of the $250 million appropriated for the comprehensive mitigation program, described above.

Insurance Rates: Requirements and Exceptions for Approval by the Office of Insurance Regulation (OIR)

- Requires OIR to approve a rating factor that provides an insurer a reasonable rate of return that is commensurate with the risk of covering hurricane losses, for that portion of the rate for which the insurer has exposed its capital and surplus and has not purchased reinsurance.
- Places the burden on OIR to establish that a proposed rate by an insurer is excessive for personal lines residential coverage with insured value of $1 million or more. The insurer must provide OIR, upon request, with loss and expense information, as reasonably needed for OIR to meet this burden.
- Requires OIR to reevaluate the insurance discounts and credits for homes built to meet the Florida Building Code and to determine the full actuarial value of such discounts, by July 1, 2007, for use by insurers in rate filings.
- Effective July 1, 2007, for residential property insurance in those areas for which OIR determines that a reasonable degree of competition exists, an insurer may increase or decrease rates by up to 5 percent on a statewide average, or 10 percent for any territory, without being subject to a determination by OIR that the rate is

excessive or unfairly discriminatory (except for unfairly discriminatory rating factors prohibited by law). This provision may be used by an insurer once in a 12-month period.

- Authorizes the Insurance Consumer Advocate appointed by the Chief Financial Officer to represent the public in insurance rate proceedings before an arbitration panel (in addition to the current authority to represent the public at a rate proceeding before the Division of Administrative Hearings). The bill also appropriates $250,000 from the Insurance Regulatory Trust Fund to the Office of the Insurance Consumer Advocate.

Insurance Rates: Use of Hurricane Loss Projection Models

The bill requires the public hurricane loss model (developed by Florida International University under contract with the department) to be submitted for review by the Florida Commission on Hurricane Loss Projection Methodology ("Commission"), by March 1, 2007. OIR is allowed to continue to use the public model in reviewing rate filings until the Commission determines it is not accurate or reliable.

In a rate hearing, the hearing officer, judge, or arbitration panel may determine whether OIR and the Insurance Consumer Advocate were provided with access to all of the assumptions and factors used in developing a hurricane loss projection model approved by the Commission and used by the insurer in its rate filing, and rule on the admissibility of such findings and factors. (Legislation in 2005 provided that OIR and the Insurance Consumer Advocate must be provided such access in order for the findings and factors (the model), to be admissible in a rate proceeding, and created a public records exemption for information that is a trade secret.

Citizens Property Insurance Corporation ("Citizens"); Oversight, Internal Controls, and Standards of Conduct

- Requires the Financial Services Commission (Governor and Cabinet), rather than the OIR, to approve Citizens' plan of operation.
- Requires the Executive Director of Citizens to be confirmed by the Senate.
- Requires Citizens to have an internal auditor.
- Requires OIR to do a market conduct examination of Citizens every two years.
- Requires the Auditor General to conduct an operational audit of Citizens every three years.
- Requires competitive bidding on contracts of $25,000 or more, with exceptions, and board approval of contracts of $100,000 or more.
- Requires OIR background checks of applicants for senior management positions.
- Subjects board members and senior managers to the code of ethics and financial disclosure requirements applicable to public officials, and requires all employees to annually submit a statement attesting that no conflict of interest exists.
- Prohibits board members and employees from accepting any gift from any person or entity under contract with Citizens or under consideration for a contract.
- Prohibits Citizens from retaining lobbyists, but allows employees to register as lobbyists.

- Prohibits senior managers, for two years following termination of employment, from representing any person or entity before Citizens, or from being employed or under contract with an insurer that received a take-out bonus from Citizens.
- Requires Citizens to conduct a cost-benefit analysis of using legal services provided by in-house (employee) attorneys, or to contract with outside attorneys.
- Requires Citizens to establish a fraud unit or division to investigate possible fraudulent claims or repairs and to meet the same anti-fraud requirements imposed on authorized insurers. Requires employees to notify the Division of Insurance Fraud within 48 hours of having information that would lead a reasonable person to suspect that fraud may have been committed by an employee of Citizens.

Eligibility for Coverage in Citizens (Nonhomestead Property and $1 Million Homes)
Effective March 1, 2007, nonhomestead property is not eligible for coverage in Citizens and is not eligible for renewal unless the property owner provides a sworn affidavit from one or more insurance agents that they have made their best efforts to obtain coverage and that the property has been rejected by at least one authorized insurer and three surplus lines insurers (for all agents combined).

Defines "homestead property" as:

- property granted a homestead tax exemption under chapter 196, F.S.;
- property for which the owner has a written lease with a renter for a term of at least 7 months and which is insured by Citizens for $200,000 or less;
- an owner occupied mobile home permanently affixed to real property, owned by a Florida resident, and either granted a homestead tax exemption or, if the owner does not own the land, for which the owner certifies that the mobile home is his principal place of residence;
- tenants coverage;
- commercial lines residential property; or
- any county, district, or municipal hospital; not-for-profit hospital; or continuing care retirement community that is certified under chapter 651, F.S., and receives an ad valorem tax exemption under chapter 196, F.S. All other property is "nonhomestead property."

Effective July 1, 2008, a personal lines residential structure that has a dwelling replacement cost of $1 million or more, or a single condominium unit that has a combined dwelling and contents replacement cost of $1 million or more, is not eligible for coverage by Citizens. Such dwellings insured by Citizens on June 30, 2008, may continue to be covered until the end of the policy term and may reapply for coverage for up to an additional three years if the property owner provides a sworn affidavit from one or more insurance agents that they have made their best efforts to obtain coverage and that the property has been rejected by at least one authorized insurer and three surplus lines insurers (for all agents combined).

Rates Charged by Citizens

Requires that for policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the purchase of reinsurance coverage from the Florida Hurricane Catastrophe Fund and private reinsurance (whether or not purchased) and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event (i.e., a 1-in-100 year hurricane), without resort to assessments or other outside funding sources.

Requires that for policies in the high-risk account of Citizens (wind-only coverage in coastal areas) issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the purchase of reinsurance coverage from the Florida Hurricane Catastrophe Fund and private reinsurance (whether or not purchased) and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event (i.e., a 1-in-70 year hurricane), without resort to assessments or other outside funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.

Provides that Citizens' rate filings for personal lines, wind-only policies (i.e., in the highrisk account) must be approved or disapproved by OIR within 90 days after receipt of the filing, or shall be considered deemed approved.

Requires use of the public hurricane loss model as the minimum benchmark for determining windstorm rates for Citizens, after the public model has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology.

Makes the current "top 20" requirement that Citizens' rates not be competitive with authorized insurers, inapplicable in a county or area for which OIR determines that no authorized insurer is offering coverage.

Assessments and Surcharges for Funding Deficits in Citizens

Provides that if a deficit is incurred in any account, the board must levy an immediate assessment on each nonhomestead property (see definition above) of up to 10 percent of the premium. If this is insufficient to eliminate the deficit, the board must levy an additional assessment against all Citizens' policyholders (including nonhomestead policyholders), collected upon renewal, of up to 10 percent of premium. Any remaining deficit is funded by regular and emergency assessments as under current law, either recouped from, or directly paid by, non-Citizens' policyholders of property insurance. The regular assessment against insurers could still be imposed as soon as a deficit is determined, but must be reduced by the amounts estimated to be collected from the two new 10 percent surcharges.

Requires that deficit assessments against insurers (and recouped from their policyholders) also be reduced by amounts estimated to be collected from "Citizens policyholder"

surcharges, previously called the "market equalization" surcharge. The current surcharge is imposed on Citizens' policyholders at the same statewide average percentage that is recouped by insurers from non-Citizens policyholders, but collected by Citizens in addition to the assessment on the insurers that fully funds the deficit. Under the bill, Citizens would be required to estimate the amount to be collected from this surcharge and reduce the regular assessment by that amount. To enable Citizens to cover the entire deficit, the Citizens policyholder surcharge is calculated based on the full amount of the regular assessment, before deducting the estimated Citizens policyholder surcharge. This has the effect of shifting a disproportionate share of the deficit assessment to Citizens' policyholders, resulting in the percentage assessment being about 1 percentage point greater than the voluntary market assessment, based on Citizens' current market share. This also appears to result in the voluntary market assessment capping out (for each of three accounts) at about 9 percent of premium, rather than 10 percent of premium, based on Citizens' current market share.

Requires limited apportionment companies (i.e., insurers with $25 million in surplus or less) to pay the full amount of a regular assessment by Citizens. Currently, limited apportionment companies are not required to pay a regular assessment for any amount of a deficit in the high-risk account over $50 million. But, the bill allows limited apportionment companies up to 12 months to pay the assessment, as compared to 30 days as required for other insurers pursuant to Citizens' plan of operation. The limited apportionment companies would also be allowed to make a rate filing to begin recouping the assessment after it has been levied and before it is paid.

Other Changes to Citizens

- Requires Citizens to maintain separate accounting records that consolidate data for nonhomestead properties, including number of policies, insured values, premiums written, and losses, and to annually report a summary of such data to OIR and the Legislature.
- Requires a 10-day waiting period for new applications, but allows for Citizens to bind coverage during this period under certain circumstances. If an authorized insurer offers coverage during this 10-day period, the applicant is not eligible for coverage in Citizens regardless of whether the insurer appoints the agent who submitted the application. (The "Consumer Choice" law does not apply during the first 10 days after a new application for coverage has been submitted to Citizens.)
- Requires Citizens to offer policyholders quarterly and semiannual premium payment plans.
- Allows Citizens to adopt policy forms that contain more restrictive coverage than provided in the voluntary market.
- Requires that coverage on mobile homes built prior to 1994 be limited to actual cash value, rather than replacement cost.
- Allows Citizens to assume policies of an insolvent insurer pursuant to court order, and to use policy forms and rates deemed appropriate and approved by OIR. This is intended to allow Citizens to charge the same rates and use the same policy forms of the insolvent insurer, until the end of that insurer's policy term.

- Requires insurers writing the non-wind coverage to contract with Citizens to provide claims adjusting services for the wind coverage provided by Citizens in the high risk account.
- Extends for three years (until February 1, 2010), the requirement that the board reduce the boundaries of the high risk (wind-only) territory, in order to reduce the 100-year probable maximum loss (PML) of the high risk account by at least 25 percent below the 100-year PML as of February 1, 2002.
- Requires that any take-out bonus paid to an insurer be conditioned on the insurer keeping the policy for five years. The bill also limits take-out bonuses to $100 per policy and requires other conditions as specified in s. 627.3511(2), F.S. Citizens must evaluate the cost-benefit of approved take-out plans for which a take-out bonus is paid, by tracking whether properties removed from Citizens are later insured by Citizens.
- Requires Citizens to report to the Legislature its recommendations regarding consolidating its three accounts and actions taken to minimize the cost of carrying debt.
- Requires Citizens to report to the Legislature on the feasibility of requiring insurers providing the non-wind coverage to issue and service Citizens' wind policies.
- Provides immunity from liability for insurance agents for the insolvency of any take-out insurer.
- Requires Citizens to make available to registered general lines agents, through a secured website, underwriting and claims files of policyholders with insured values of $1 million or more, subject to a required notice from Citizens to such policyholders and the option to elect not to make such information available.

Annual Report by Financial Services Commission of Assessment Burden

Requires the Financial Services Commission to provide an annual report to the Legislature of the probable maximum losses, financing options, potential assessments of Citizens and the FHCF, and the assessment burden on Florida policyholders.

Sinkhole Claims

- Requires the department to certify engineers and geologists to serve as "neutral evaluators" of sinkhole claims disputes. This process would be mandatory if requested by either party, but nonbinding, and the costs would be paid by the insurer. If the insurer timely complies with the recommendation of the neutral evaluator, but the policyholder declines to resolve the matter in accordance with the evaluator's recommendation, the insurer is not liable for extra-contractual (bad faith) damages related to issues determined at the neutral evaluation. Also, the insurer is not liable for attorney's fees, unless the policyholder obtains a more favorable judgment at trial. OIR is appropriated funds and 2 FTEs for this purpose.
- Allows residential policies to provide a deductible for sinkhole losses equal to 1, 2, 5, or 10 percent of the dwelling limits.
- Allows the insurer to make payment directly to the persons selected by the policyholder to make the repairs, if approved by the policyholder and lien holder.

- Deletes the current requirement that testing by a geologist to determine the presence or absence of a sinkhole loss be conducted in compliance with a specified publication of the Florida Geological Survey.
- Requires OIR to calculate a presumed factor to reflect the impact on rates of the changes made by the act related to sinkhole claims and the changes made by provisions of the 2005 property insurance act related to sinkhole claims. OIR is appropriated $250,000 for the purposes of this study. Each residential property insurer must, in it next rate filing after October 1, 2006, reflect a rate change that takes into account the presumed factor.
- Requires that insurers file information regarding paid sinkhole claims with the county clerk of court, rather than the county property appraiser, and specifies that the recording of the report does not constitute a lien or restriction on the title, and does not create any cause of action or liability.
- Makes it unlawful for a contractor or business providing sinkhole remediation services to communicate with any attorney for the purpose of assisting the attorney in the solicitation of legal business.

Florida Insurance Guaranty Association (FIGA)

- Authorizes FIGA to impose annual emergency assessments on insurers of up to 2 percent of written premium for specified lines of property and casualty insurance (in addition to the current authority to impose up to a 2 percent assessment), if necessary to fund revenue bonds issued by a municipality or county to pay claims of an insurer rendered insolvent due to a hurricane.
- Increases the maximum amount of FIGA's liability for a covered homeowners insurance claim against an insolvent insurer from $300,000 to $500,000.
- Provides that FIGA covers claims of a business (as a policyholder or claimant of an insolvent insurer) that has its principal place of business in Florida, rather than incorporated in Florida.
- Allows FIGA to pay claims of unearned premium refunds, under certain conditions, without requiring the policyholder to file a proof of claim form.

Emergency Orders; Standardized Rules for Hurricanes

- Authorizes the Commissioner of Insurance Regulation to issue general orders applicable to all insurance companies, after the Governor declares a state of emergency, which orders may be effective for up to 120 days.
- Requires the Financial Services Commission to adopt rules standardizing requirements that may be applied to insurers after a hurricane, addressing claims reporting requirements, grace periods for payment of premiums, and temporary postponement of cancellations and nonrenewal. Provides that any emergency rule that conflicts with the standardized rules must be by unanimous vote of the Financial Services Commission.

Other Provisions

- Requires that an insurer make a claims payment directly to the primary policyholder without requiring an endorsement from a lien holder or mortgage holder, for:

  - personal property and contents;
  - additional living expenses; and
  - other covered items not subject to a security interest recorded in the dual interest provision of the insurance policy.
- Allows insurers to make electronic payment of insurance claims, under certain conditions, without written authorization.
- Permits alien surplus lines insurers to use letters of credit meeting certain criteria to fund the required minimum $5.4 million trust fund.
- Clarifies that if a property insurer does not obtain a written rejection from the policyholder for coverage for the additional construction costs of meeting new building codes, commonly called "law and ordinance coverage," the policy is deemed to include such coverage limited to 25 percent of the dwelling limit, not the 50 percent limit that must also be offered. Current law is ambiguous on this point, but the bill conforms to the current interpretation used by OIR.
- Clarifies that the law requiring insurers to offer replacement cost coverage and, if elected, to pay the replacement cost whether or not the policyholder replaces or repairs the damaged property, does not prohibit an insurer from limiting its liability to the lesser of: the cost of repair, the cost to replace, or the limit of liability shown on the policy declarations page.
- Requires OIR to conduct a study and report on the insurability of attached or free standing structures.
- Requires OIR to conduct a study and develop a program that will provide an objective rating system that will allow homeowners to evaluate the relative ability of Florida properties to withstand the wind load from a hurricane.
- Prohibits public adjusters from engaging in conflicts of interest by participating in the repair of damaged property that he adjusted.
- • Provides procedures for the cancellation of a property and casualty insurance policy if the policyholder submits a check which is subsequently dishonored by a financial institution. The bill provides that an insurance policy can be cancelled "ab initio" (from the beginning, or back to the first day of coverage) if the insured does not timely cure a dishonored check within 5 days of notice.

Other Legislation Affecting

the Department of Financial Services

SB 124 – Sovereign Immunity/Law Enforcement: Chapter Law #2006-234, Laws of Florida; Effective June 20, 2006; by Senator Posey.

This legislation provides that an employing agency of a law enforcement officer is not liable for injury, death, or property damage effected or caused by a person fleeing from a law enforcement officer in a motor vehicle under specified circumstances.

HB 145 – Joint and Several Liability: Chapter Law #2006-6, Laws of Florida; Effective April 26, 2006; by Representative Brown.

This bill deletes exceptions to a requirement for liability based on percentage of fault instead of joint and several liability.

~~**HB 217 – Sinkhole Insurance:** Chapter Law #2006-___, Laws of Florida; Effective July 1, 2006; by Representative Legg.~~ **VETOED 6/15/06**

Beginning October 1, 2006, the bill authorizes residential property insurers to offer various levels of deductibles applicable specifically to sinkhole losses: 1, 2, 5, and 10 percent of policy dwelling limits.

The bill defines the term, "Professional Engineer" to mean one who is licensed by the state.

Section 627.707, F.S., also is amended to authorize an insurer to make payment for sinkhole repairs directly to the repair person if the property owner and any lienholder request the direct payment by an insurer in writing. Such direct payment by an insurer does not make the insurer liable for the repairs.

The bill changes information a professional geologist or professional engineer must include in a sinkhole report prepared for an insurer. The report is now required to identify the "cause of distress to the property," rather than to verify or eliminate a sinkhole as the cause of the property damage.

An insurer is required by the bill, after settling a sinkhole claim, to file a copy of the engineer's or geologist's report on the damages to the property with the county clerk of court.

The bill specifies that a sinkhole report filed with the clerk of court is not a lien against a property title, nor does the report otherwise encumber the property title. Filing a sinkhole report also does not create a liability for or cause of action against title insurers who have insured the title of the affected property.

The bill creates a new section of law, s. 627.7074, F.S., which assigns the Department of Financial Services to administer an alternative procedure for resolving disputed sinkhole claims; the procedure is called "neutral evaluation."

Only professional geologists and professional engineers who have completed a course in alternative dispute resolution and been approved by the department may serve as neutral evaluators.

Once an insurer either receives a sinkhole report from a geologist or engineer, or denies a sinkhole claim, the insurer must inform the policyholder of the right to request a neutral evaluation. The neutral evaluation will be an informal process, nonbinding, but mandatory, if requested either by the insurer or policyholder.

Insurers are required by the bill to pay the costs associated with the neutral evaluation process. A neutral evaluation may be held via telephone conference call if agreed to by the parties and the bill requires the neutral evaluation hearing to be held within 45 days of the initial request to the department.

The department will adopt rules governing the neutral evaluation process and staff of the department may assist policyholders in the hearing if the policyholder does not hire an attorney for representation in the hearing.

If an insurer offers to settle the claim during the neutral evaluation, or if the policyholder and insurer negotiate for a settlement during the neutral evaluation, such offers may not be used in a subsequent legal action to prove liability or its absence, or the value of the claim.

At the end of the neutral evaluation, the neutral evaluator is required to prepare a report relating to unresolved matters between the insurer and its policyholder. The report of the neutral evaluator is required to verify or eliminate a sinkhole as the cause of the property damage.

If the evaluator believes a sinkhole caused the property damage, the report also must detail the need for, and estimated costs of, stabilizing the land and any insured structures, including appropriate remediation and structural repairs.

The neutral evaluator must send a copy of his or her report to the parties to the hearing and to the department.

The recommendation of the neutral evaluator is not binding, however, the written recommendations may be used in a legal action relating to the sinkhole claim.

If the neutral evaluator determines a sinkhole caused the property damage and recommends stabilization and repairs with an estimated cost exceeding any settlement offer made by the insurer to the insured, the insurer must pay legal fees, if any, up to $2,500, incurred by the policyholder during the neutral evaluation process.

If an insurer timely agrees in writing to perform the repairs recommended by the neutral evaluator and timely does so, but the policyholder declines to resolve the claim as recommended by the neutral evaluator, then:

- the insurer is not liable for extra-contractual damages related to the issues determined by the neutral evaluation;
- the insurer may be liable for extra-contractual damages unrelated to the issues determined in neutral evaluation; and
- the insurer is not liable for the policyholder's attorney fees unless the policyholder receives a judgment more favorable than the neutral evaluator's recommendation.

The bill prohibits a general or other contractor and any other business providing sinkhole remediation from soliciting business for an attorney.

The sum of $250,000 is appropriated by the bill to the Office of Insurance Regulation (OIR) from the Insurance Regulatory Trust Fund. The bill requires OIR, or its contractor, by September 1, 2006, to calculate a presumed factor to reflect the changes in the bill and changes related to sinkhole coverage enacted in 2005 and the impact of the changes on rates filed by residential property insurers providing sinkhole coverage.

Insurers are required to reflect a rate change taking into account the presumed factor in their respective rate filings made after October 1, 2006.

The bill appropriates $115,322 in recurring funds and $10,486 in nonrecurring funds to the department. The monies will be used by the department to hire 2 FTEs to implement the neutral evaluation program established by the bill.

HB 219 – Labor Pools: Chapter Law #2006-10, Laws of Florida; Effective July 1, 2006; by Representative Troutman.

Any Labor Pool employee assigned to a client who is licensed, registered, or certified pursuant to law shall be deemed an employee of the client for such licensure purposes, but will remain an employee of the labor pool or temporary help arrangement entity for purposes of chapter 440, F.S.

HB 241 – KidCare Program: Chapter Law #2006-248, Laws of Florida; Effective July 1, 2006; by Representative Vana.

This bill provides that certain children who are ineligible to participate in the Florida KidCare program are eligible for the Medikids program or the Florida Healthy Kids program.

SB 262 – Administrative Procedures: Chapter Law #2006-82, Laws of Florida; Effective July 1, 2006, except as otherwise provided; by Senator Bennett.

The bill amends the Administrative Procedure Act (APA) to require Internet noticing of the Florida Administrative Weekly (FAW).

In addition, the bill:

- Clarifies the appeal process following a proposed rule challenge.

- Provides that equitable tolling may be a defense to an untimely filed petition for administrative determination.
- Clarifies that the filing of a petition for administrative determination of a proposed rule tolls all applicable time periods, not just the 90-day period.
- Provides authority for uniform rules of procedure related to bid protest bonds and agency enforcement and disciplinary actions.
- Requires agency forms to display the number, title, effective date, and the number of the rule in which the form is incorporated by reference.
- Requires the uniform rules of procedure to describe the contents of the notices published in the FAW relating to declaratory statements.
- Requires the Joint Administrative Procedures Committee to maintain a continuous review of statutes authorizing agency rulemaking, and removes the requirement that the committee undertake a systematic review of the statutes.
- Requires that the final order include a ruling on each exception, and provides that the final order does not become effective until the agency provides a copy to the Division of Administrative Hearings (DOAH).
- Requires the DOAH annual report to include recommendations as to the types of cases that should be resolved by the summary hearing process.
- Requires the biennial agency report on rules to identify the types of cases that should be resolved by the summary hearing process.
- Expands the Florida's Equal Access to Justice Act by expanding the definition of "small business party."

SB 274 – Defibrillators in State Parks: Chapter Law #2006-40, Laws of Florida; Effective July 1, 2006; by Senator Jones.

This legislation encourages state parks to have on the premises an automated external defibrillator and ensure that employees and volunteers are properly trained. Employees and volunteers are granted immunity from liability under the Good Samaritan Act and the Cardiac Arrest Survival Act, ss. 768.13 and 768.1325, F.S.

HB 299 – Travel-Limited Life Insurance: Chapter Law #2006-277, Laws of Florida; Effective July 1, 2006; by Representative Sobel.

The bill is cited as the "Freedom to Travel Act." The legislation creates a new unfair or deceptive trade practice provision under the Insurance Code (s. 626.9541, F.S.) which would prohibit life insurers from refusing coverage or otherwise discriminating against an individual solely on the basis of that individual's past lawful foreign travel experiences. The bill further prohibits life insurers from refusing coverage or otherwise discriminating against an individual solely on the basis of that individual's future lawful foreign travel plans, unless life insurers demonstrate, and the Office of Insurance Regulation determines, that:

- individuals who intend to travel are a separate actuarially supportable class whose risk of loss is different from those individuals who do not intend to travel; and

- such risk classification is based on sound actuarial principles and actual or reasonably anticipated experience that correlates to the risk of travel to a specific destination.

SB 428 – Per Diem: Chapter Law #2006-41, Laws of Florida; Effective July 1, 2006; by Senator Lawson.

The Legislature last increased the rates for per diem and meals in 1981, and the rate for mileage in 1994. The bill amends s. 112.061, F.S., so that the reimbursement rates are as follows:

- The $50 per diem rate for travelers would be increased to $80.
- The $3 breakfast rate for travelers would be increased to $6.
- The $6 lunch rate for travelers would be increased to $11.
- The $12 dinner rate for travelers would be increase to $19.
- The 29 cents per mile rate for travelers using a privately owned vehicle would be increased to 44.5 cents per mile.

The bill also permits specified county-level entities to enact policies that vary from the standard rates so long as those rates are not less than the authorized rates for FY 2005-2006.

SB 786 – State Minimum Wage/Notification: Chapter Law #2006-84, Laws of Florida; Effective January 1, 2007; by Senator Hill.

This bill creates s. 448.109, F.S., related to notification of the state minimum wage. It requires each employer who must pay an employee the Florida minimum wage to display a poster in a conspicuous and accessible place in every establishment where employees are employed.

SB 844 – State Employees: Chapter Law #2006-18, Laws of Florida; Effective July 1, 2006; by Senator Carlton.

This bill relates to issues regarding the pay and benefits offered to state employees. The bill clarifies an ambiguity by granting the Justice Administrative Commission specific authority to approve a benefits plan for commission staff. The bill continues current co-payments for prescription drugs for the State Employee Health Insurance Plan and continues the current level of employer contributions into a participant's health savings account for FY 2006-2007 for those employees participating in the high deductible plans.

The bill restricts an agency from providing pay additives to a cohort of employees unless the Legislature has specifically authorized the pay additives for the specific cohort of employees impacted and such additives are not inconsistent with the applicable collective bargaining agreement. The bill prohibits the use of state funds to pay subsistence or per diem related to Class C travel (travel occurring within a single day).

HB 911 – Emergency Shelters/State Facilities: Chapter Law #2006-67, Laws of Florida; Effective July 1, 2006; by Representative Bullard.

Currently state buildings are available for shelters during a catastrophe. This bill provides that the Department of Management Services shall keep an inventory of these facilities; creates a standard for the condition of the facilities; defines operational status of the facilities.

HB 947 – Long-Term Care Coverage: Chapter Law #2006-254, Laws of Florida; Effective June 20, 2006; by Representative Legg.

This legislation directs the Agency for Health Care Administration to establish a qualified state Long-Term Care Insurance Partnership Program in Florida, in consultation with the Office of Insurance Regulation and the Department of Children and Family Services.

In addition to providing certain program requirements, the bill also provides that, for purposes of determining Medicaid eligibility, assets in an amount equal to the insurance benefit payments made to, or on behalf of, an individual who is a beneficiary under a qualified state Long-Term Care Insurance Partnership Program in Florida shall be disregarded.

Essentially, this enables Floridians to qualify for coverage of the substantial costs associated with provision of long-term care services under Medicaid without first being required to substantially exhaust – or "spend down" – assets and resources.

The bill also requires the Office of Program Policy Analysis and Government Accountability to prepare a report on the implementation of a qualified state Long-Term Care Insurance Partnership Program in Florida.

The bill also amends several laws governing long-term care insurance as follows:

- provides that a long-term care policy is incontestable after being in force for 2 years, except in instances of non-payment of premium;
- prohibits an insurer from imposing a new waiting period when a policy is replaced through an affiliated insurer;
- eliminates the current minimum nursing home benefit of 24 months of coverage;
- requires that any long-term care insurance policy or certificate issued or renewed, at the policyholder's option, shall make available to the insured the contingent benefit upon lapse as provided in the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners;
- prohibits existing policyholders from being charged premiums that exceed the premiums the insurer is charging to new policyholders; and
- requires insurers to pool the claims experience of all affiliated carriers when calculating rates rather than only the policy forms providing similar benefits of the insured.

HB 1113 – Insurance Agents: Chapter Law #2006-184, Laws of Florida; Effective July 1, 2006, except as otherwise provided; by Representative Lopez-Cantera.

This bill makes various changes to insurance agent licensing provisions under the Insurance Code. Specifically, the bill does the following:

- Provides that insurance agents, customer representatives, adjusters, service representatives, managing general agents, or reinsurance intermediaries may voluntarily disclose their race or ethnicity, gender or native language on license applications to the Department of Financial Services (department) which will use the information exclusively for research and statistical purposes and to improve the quality and fairness of the license examination. This provision is to take effect on January 1, 2007.
- Mandates that the department must provide fingerprint processing services at all its designated license examination centers in order to take an applicant's fingerprints. The department is prohibited from approving a license application if fingerprints have not been submitted**.** This provision is to take effect on January 1, 2007.
- Removes the prohibition against the department denying, delaying or withholding approval of applications due to the fact that it has not received a criminal history report based on the applicant's fingerprints. Revises circumstances under which the department must notify an applicant about license examinations. This provision is to take effect on January 1, 2007.
- Exempts from the examination requirement an adjuster applicant who has the designation of a Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy or a Certified Claims Adjuster (CCA) from the Association of Property and Casualty Claims Professionals.
- Clarifies that no person is permitted to take a license examination until his or her application for examination has been approved. Allows a license applicant to take the license examination prior to submitting a license application by submitting an examination application through the Internet website of the department. Specifies information the applicant must provide the department including voluntarily reporting race or ethnicity, gender or native language information. The application must state that an applicant is not required to disclose information as to race or ethnicity, gender or native language and will not be penalized for not doing so, and that the department will use the data exclusively for research and statistical purposes and to improve the quality and fairness of the examination. Each application must be accompanied by an examination fee. This provision is to take effect on January 1, 2007.
- Provides that the license examination provisions for an agent, customer representative or adjuster apply to any person who submits a license application and to any person who submits an examination application prior to filing an application for a license.
- Requires the department to annually prepare and publish an annual report (by May 1st) that summarizes statistical information relating to life insurance agent examinations administered during the preceding calendar year. The report must include information for all examinees, combined and separately, by race or

ethnicity, gender, race or ethnicity within gender, education level and native language according to specified criteria which includes the total number of examinees; the percentage and number of examinees who passed the examination; the mean scaled scores and the standard deviation of scaled scores on the examination. The department must make available upon request a statistical summary relating to each life insurance test form administered during the proceeding year which indicates for each test form specified ethnic and racial information. The department is authorized to provide application information under contact with a testing service.

- Requires the department to provide the time and place of the examination to each applicant for an examination.
- Provides that an applicant for license examination must appear in person and personally take the examination. This provision is to take effect on January 1, 2007.
- Provides that an applicant for examination may take additional examinations.
- Requires the department to promptly issue a license as soon at it approves such license for those applicants who have completed the examination and received a passing grade. The bill provides that a passing grade is valid for 1 year and that the department may not issue a license based on an examination taken more than 1 year prior to the date the application for license is filed. This provision is to take effect on January 1, 2007.
- Appropriates for FY 2006-07, $158,995 in recurring funds and $120,069 in nonrecurring funds from the Insurance Regulatory Trust Fund in the department for the purposes of funding the act and provides for three full-time equivalent positions with $103,285 in associated salary rate.

HB 1123 – Government Accountability: Chapter Law #2006-146, Laws of Florida; Effective July 1, 2006; by Representative Sansom.

This act provides a periodic review process for the continuation, modification, or abolition of many agencies of the executive branch of state government, including entities separately attached to the judicial and legislative branches.

The Florida Legislature has enacted many structural devices to ensure the periodic review of governmental functions and agencies. The pioneering enactments date from the 1970s and while modified since then they have become sequentially known as the Sundown Act, Sunset Act, and Sunrise Act. Additional budget-based enactments have occurred since that time to provide succeeding Legislatures with a number of policy and financial tools to gauge the operations and sufficiency of the entities they have created and funded. The Open Government Sunset Review Act is by far the most commonly invoked of these enactments. Each year the Legislature undertakes a review process on new or existing public records exemption statutes to comply with the Florida constitutional right of access to public meetings and records.

This act creates a “Florida Government Accountability Act” and proposes an eight-year review process affecting named state agencies and their advisory bodies. It establishes a

multi-member Legislative Sunset Advisory Committee to act in a review and recommending capacity for agency reviews conducted by the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA). Both OPPAGA and the advisory committee are directed to utilize specific review criteria designed to examine each reviewed agency's operations which will ultimately lead to a recommendation to the Legislature on whether it should be retained, modified, or repealed.

The act provides that a failure of the Legislature to act invokes an automatic one-year period at which time the reviewed state agency shall be subject to abolition unless specifically saved from expiration. If a decision to terminate an agency is reached, the bill provides specific safeguards for securing its property and funds and the satisfaction of any debt it has issued.

Additional changes are made to the planning and budgeting statutes, and a working group of key budget professionals from the executive and legislative branches is created to make recommendations regarding methodology used in computing activity and unit cost information for agency legislative budget requests.

The act appropriates $400,000 and five full-time equivalent positions to OPPAGA to fund the FY 2007 workload created by the act.

SB 1256 – Continuing Care Providers/Debt: Chapter Law #2006-202, Laws of Florida; Effective July 1, 2006; by Senator Saunders.

This bill provides the following changes to the calculation of minimum liquid reserve provisions by:

- Restructuring the treatment of property insurance premiums in the calculation of minimum liquid reserve requirements by removing property insurance premiums from the "debt service" reserve and placing such premiums into the calculation of the "operating" reserve of a CCRC;
- Deletes the provision capping property insurance premiums at the 1999 level;
- Deletes the January 1, 2006, provision mandating increases in reserves for property insurance premiums by 10 percent per year.

The effect of these changes will generally require that 30 percent of the property insurance premiums be reserved. This percentage is lower than the increase that would occur under current law (due to the 1999 cap expiring). But, the bill will result in gradual premium increases compared to the 1999 cap.

HB 1351 – Electrical and Alarm Systems: Chapter Law #2006-154, Laws of Florida, Effective July 1, 2006, by Representative Reagan.

A provision of this bill exempts fire alarm systems from s. 489.530, F.S. requirement to have a device to automatically terminate the audible signal within 15 minutes of activation.

~~HB 1361 – Insurance/Debt Cancellation:~~ ~~Chapter Law #2006-____, Laws of Florida; Effective *upon becoming law*; by Representative Brown.~~ **VETOED 6/27/06**

Debt Cancellation Products
The bill authorizes insurers to sell debt cancellation and debt suspension agreement contractual liability insurance to creditors such as a bank or credit union, or an entity entering into retail installment contracts. The product would serve to insure a creditor from losses experienced pursuant to debt cancellation contracts, debt suspension agreements, or retail installment contracts that the creditor has executed with its customers. The debt cancellation product is not insurance, but instead is classified as a loan or lease contract term, or a contractual agreement. The Financial Services Commission is given rulemaking authority to administer the sale of debt cancellation products by motor vehicle retail installment sellers.

The bill also eliminates the $50,000 limit on insurance that may be procured on the life of a debtor under a debtor group contract or via credit life insurance. The change would allow the amount of insurance procured under a debtor group contract or credit life insurance on the life of a debtor to be up to the amount of his or her indebtedness to the creditor. The bill allows for the term of credit disability insurance to extend for the term of the indebtedness, rather than the current 10 year limitation.

Free Insurance Exception
The bill creates an exception to the general prohibition against offering or providing free insurance. Such insurance covering property other than real property or motor vehicles may be offered or sold if the person paying for the insurance has an ongoing contractual or economic interest in the property or requires the property to deliver its services.

Health Identification Cards
Health insurance companies and health maintenance organizations are required to provide identification cards to policyholders and subscribers, which contain specified information that can be used to estimate the financial responsibility of the covered person and contact information for the insurer or HMO. This information will assist hospitals and other providers in determining coverage and the financial responsibility of the covered person.

Discount Medical Plan Organizations
A discount medical plan organization (DMPO) applicant is permitted to submit, rather than petition OIR to accept, audited financials of the parent company, in lieu of the DMPO's financials. Additionally, the DMPO is allowed to certify that minimum capitalization requirements are satisfied rather than submit annual, audited financials. The bill states that a market investigation by the Office of Insurance Regulation (OIR) of a DMPO may only be conducted "for cause." A DMPO is authorized to require a waiting period for accessing hospital services and charge up to $60 dollars per month for a plan that covers physician or hospital services without prior approval from the OIR. A DMPO plan that does not include access to physician or hospital services may continue to charge up to $30 per month the plan without prior approval from the OIR.

Non-Profit Workers' Compensation Self-Insurance Funds
The bill authorizes any two or more not for profit corporations located in Florida and organized under Florida law to form a self-insurance fund for pooling liabilities of its members for any property, casualty, or surety risk, provided that the fund has annual normal premiums in excess of $5 million and has only members who each receive at least 75 percent of its revenue from local, state, or federal government sources. The self-insurance fund must use a qualified actuary to determine rates and establish reserves and annually submit to the Office of Insurance Regulation (OIR) a certification that the rates are actuarially sound and are not inadequate. The fund must maintain excess insurance, with a retention that does not exceed $350,000 per occurrence. Annual audited financial statements must be submitted to the OIR. The governing body of the self-insurance fund must be comprised entirely of corporation not for profit officials and the fund must use knowledgeable personnel to administer the fund with a minimum of 5 years' experience with commercial self-insurance funds, group self-insurance funds, or domestic insurers, with such persons meeting all licensure requirements. The self-insurance fund must submit to the OIR contracts used for its members which clearly establish the liability of each member for obligations of the fund. The fund must annually submit to the OIR a certification by the governing body that, to the best of its knowledge, the requirements under this law are met. The bill also states that a workers' compensation policy issued by a workers' compensation self-insurance fund covered by the Workers' Compensation Insurance Guaranty Association cannot be rejected pursuant to a construction contract if the rejection is because the self-insurance fund is not rated by a nationally recognized rating service.

The bill revises provisions relating to security deposits by domestic insurers to allow such deposits to be held by broker/dealers, to conform to Florida law to the model law and rules enacted by the National Association of Insurance Commissioners.

SB 1506 – Insurance/Electronic Statements: Chapter Law #2006-64, Laws of Florida; Effective June 1, 2006; by Senator Alexander.

This legislation provides the Office of Insurance Regulation (OIR) with the authority to collect electronic financial statements or other information from viatical settlement providers, life expectancy providers, premium finance companies, and continuing care retirement communities. Currently, such entities submit these statements or filings only by hard copy.

The bill also authorizes OIR to require that records of a particular transaction of stock and mutual insurers be submitted by remote electronic access.

The bill authorizes the Financial Services Commission (Governor and Cabinet) to require by rule that financial statements or other filings be submitted to OIR by electronic means in a computer-readable form, compatible with the electronic data format specified by the Commission.

HB 1567– Eminent Domain: Chapter Law #2006-11, Laws of Florida; Effective May 11, 2006; by Representative Rubio.

This legislation revises the eminent domain law in Florida in several significant aspects in order to protect private property rights. The key provisions in the bill may be summarized as follows:

- This bill prohibits the transfer of any property taken by eminent domain to private parties unless the property is used for common carrier services; transportation purposes; public or private utility services; public infrastructure; or providing goods or services to the public in an incidental part of a public facility.
- The bill also requires taken property to be held for 10 years; however, taken property may be transferred to a private entity within 10 years after taking if the property owner has the opportunity to repurchase the property for the amount the property owner received, the condemning authority documents that the property is no longer needed, and the sale is subject to competitive bidding and public notice.
- The bill expressly prohibits the taking of private property by eminent domain for the purpose of eliminating or abating a public nuisance but explicitly preserves the power of cities and counties to enact ordinances to abate or eliminate public nuisances to the extent the ordinances do not authorize the taking of property by eminent domain.
- The bill expressly prohibits taking private property by eminent domain for the purpose of eliminating slum or blight conditions in this state.
- The provisions of the bill apply to all petitions of taking filed on or after the effective date of the bill; therefore, the bill does not apply to pending judicial proceedings in which the petition of taking was filed prior to the effective date of the bill.

Although the bill significantly restricts the power of eminent domain under the Community Redevelopment Act, the bill does not alter the manner in which community redevelopment areas are created, funded, modified, or otherwise governed.

SB 1620 – Warranty Associations: Chapter Law #2006-272, Laws of Florida; Effective July 1, 2006; by Senator Haridopolos.

Chapter 634, F.S., regulates warranty associations, including motor vehicle service agreement companies, home warranty associations, and service warranty associations.

The bill provides the following changes to laws governing warranty associations:

- Prohibits an association from investing or lending association funds to any officer, director, or controlling shareholder;
- Allows home warranty contract holders to cancel the contract within 10 days, with a refund of at least 95 percent of the premium and to cancel at any time, after the 10 days, with a refund of at least 90 percent of the unearned pro rata premium. Current law allows for cancellation within 10 days without penalty, but only for contracts offered in connection with a home equity loan; not contracts offered in connection with the sale of a home;

- Provides that if a home warranty association elects to use a contractual liability insurance policy in lieu of establishing an unearned premium reserve, the policy must cover al home warranty contracts issued during the policy period whether or not the premium has been remitted to the insurer;
- Allows a service warranty association to sell a warranty in connection with the sale of a home, without also being licensed as a home warranty association, if the warranty only covers systems and appliances and no structural component of a home;
- Allows a home warranty association to renew a home warranty more than nine times, the current statutory limit, and charge a higher rate to renew a warranty than the current cost to purchase a new warranty for the same home, which is currently prohibited; and
- Exempts from licensure, as a motor vehicle service agreement company, an affiliate of a licensed motor vehicle service agreement company which is domiciled in Florida and uses contractual liability insurance to meet reserve requirements, if the affiliate does not issue or market motor vehicle service agreements to Florida residents and does not administer such agreements originally issued to Florida residents.

SB 1632 — Agency Inspectors General: Chapter Law #2006-219, Laws of Florida; Effective July 1, 2006; by Senator Bennett.

The bill creates a Council on State Agency Inspectors General in the Office of Chief Inspector General within the Executive Office of the Governor. The Council consists of the Chief Inspector General and four other Inspectors General appointed by the Governor.

The Council is tasked with developing recommendations relating to the creation of an independent review process for state agency inspector general investigations and audits. At a minimum, these recommendations must:

- Offer entities contracting with state agencies a meaningful opportunity to challenge in writing the findings, conclusions, and recommendations contained in a state agency inspector general's final report.
- Specifically identify the entities entitled to submit a response, and identify the circumstances under which the entity's response must be attached to the state agency inspector general's final report.
- Include a hearing process entitling entities contracting with state agencies with an opportunity to present to the Chief Inspector General any additional material relevant to the state agency inspector general's final report.
- Identify ancillary issues to be addressed, including but not limited to public records concerns, special conditions for whistle-blower's investigations, and exemptions for specific categories of audits or investigations.

The Council must finalize its recommendations related to these issues and report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, before January 1, 2007. The legislation repeals on July 1, 2007.

SB 1670 – State Financial Matters: Chapter Law #2006-205, Laws of Florida; Effective July 1, 2006; by Senator Garcia.

This bill expands the authority provided the Board of Administration in statute for the conduct of its fiduciary duties as the manager of more than two dozen investment funds, including the multi-employer Florida Retirement System (FRS) and its dual track defined benefit (Pension Plan) and defined contribution plan (Investment Plan). Investment restrictions contained in ss. 215.44-215.47, F.S., preclude a concentration of fund assets in any one asset class or the holding of large positions of a single equity or debt beyond a nominal amount. As part of its long-term investment management plan the board has advised the FRS plan trustees (Governor, Chief Financial Officer, and Attorney General) of the opportunity to adjust the statutory limits on its investment classes in order to make its investments sensitive to what it believes are changed circumstances in world-wide financial markets.

This legislation eliminates archaic language on the holding of Florida-specific mortgages and expands from 20 to 25 percent the permitted allocation of fiduciary funds in foreign asset classes. The legislation revises the current interest rate assumption for inter-plan transfers, that is, from Pension Plan to Investment Plan, from a fixed 8 percent to a rate set annually and incorporated into the overall actuarial assumptions for the FRS. The current interest rate assumption is 7.75 percent.

The bill provides sanctions against current or former Investment Plan participants who receive a distribution from their account but do not engage in a bona fide termination of employment. When such an event occurs the board is given the authority to conduct an administrative hearing if there are disputed issues of fact. The act changes the investment threshold for certain cash- and debt-based instruments from an institution's net worth to a rating system set by one of the several national rating systems. The board is also given expanded authorization to sell any of its securities short, a financial strategy that permits it to borrow securities at one price in anticipation of market opportunities for overvalued or underperforming securities which will yield it a gain on the basis of a price decline over time. Investment Plan participants may purchase prior earned armed services credit under like circumstances permitted for those individuals enrolled in the Pension Plan.

SB 1678 – Governmental Operation/Agency Fees: Chapter Law #2006-93, Laws of Florida; Effective July 1, 2006; by Senate Government Efficiency Appropriations Committee

SB 1678 creates s. 216.0236, F.S., to establish a uniform policy governing regulatory program funding.

The bill requires that all costs of providing a regulatory service or regulating a profession or business be borne solely by those who receive the service or who are subject to regulation, but requires that the fees imposed be reasonable and take into account the differences in the types of professions or businesses being regulated.

The bill also requires that each state agency annually examine the fees it charges for regulatory services and oversight, as provided in the legislative budget request instructions, to determine whether:

- Operational efficiencies can be achieved in the underlying program;
- The regulatory activity is an appropriate state function; and
- The fees charged are adequate to cover both direct and indirect costs.

If any of the fees charged are not adequate to cover program costs, the bill requires the agency to include in its legislative budget request:

- Alternatives for realigning revenues and/or costs to make the regulatory program totally self-sufficient, such as changes in fee caps or outdated operational requirements; or
- Demonstrate that the program provides substantial benefits to the general public to justify a partial subsidy from other state funds.

The bill also provides for the review of the regulatory fee structure by the Legislature at least every five years.

SB 1716 – State Planning and Budgeting: Chapter Law #2006-119, Laws of Florida; Effective *contingent on amendment to State Constitution* by Senator Atwater.

This bill conforms current statutes to the provisions of Senate Joint Resolution 2005-2144, which puts before the voters at the next general election proposed changes to s. 19, Art. III of the State Constitution.

Specifically, the bill makes the following changes:

- Limits the amount of non-recurring general revenue that may be used to fund the recurring costs of state programs to 3 percent of total general revenue (just over 900 million for FY 2006-07). This limitation may be waived by a 3/5 vote of the Legislature.
- Establishes the Joint Legislative Budget Commission in the Florida Constitution to operate essentially as it does now. Membership remains at seven Senators and seven Representatives. The chair of the commission will be appointed in alternate years by the President of the Senate and the vice chair appointed by the Speaker of the House of Representatives (instead of the chairs of the appropriations committees serving as chair and vice chair); in alternate years, appointing authority is reversed. The commission will convene at the call of the presiding officers (instead of the chair and vice chair).
- Directs the Joint Legislative Budget Commission to develop a long-range 3-year financial outlook which will be updated each year with the assistance of each state agency. The bill prescribes a plan to ensure an integrated state planning and budget process to assure consistency between the agency's long-range plan and the agency's legislative budget request.
- Creates a Government Efficiency Task Force in 2007, and every four years thereafter, to make recommendations to improve government and reduce costs.

The 15 member task force will be composed of members of the legislature and representatives of the public and private sectors. Five members each will be appointed by the President of the Senate, Speaker of the House of Representatives, and Governor. The task force will complete its work within one year.

- Clarifies that the Financial Impact Estimating Conference is subject to the legislative rules of notice and openness to the public.

SB 1756 — Succession to the Office of the Governor: Chapter Law #2006-53, Laws of Florida; Effective May 30, 2006; by Senator Sebesta.

The configuration of the Florida Cabinet was modified by the adoption of Constitutional Amendment No. 8. in November 1998. The amendment merged two Cabinet offices and eliminated two others. Specifically, the offices of the Treasurer and the Comptroller were merged into the office of the Chief Financial Officer. The amendment also removed the Secretary of State and the Commissioner of Education from the Cabinet. As a result of the adoption of the amendment, the Cabinet consists of an Attorney General, a Commissioner of Agriculture and a Chief Financial Officer.

This bill modifies the current statutory succession to the office of Governor in order to reflect changes in the size and composition of the Cabinet. The bill eliminates the Secretary of State from the succession as that office is no longer elected, but is appointed by the Governor. The bill also eliminates the Commissioner of Education from succession. Further, the Comptroller and the Treasurer are eliminated from succession to the office of Governor as those offices have been merged into the office of the Chief Financial Officer. The bill places the Chief Financial Officer in the line of succession.

Under the bill, the line of succession to the office of Governor is as follows: the Lieutenant Governor, the Attorney General, the Chief Financial Officer, and then the Commissioner of Agriculture.

SB 1774 — Building Codes: Chapter Law #2006-65, Laws of Florida; Effective July 1, 2006; by Senator Constantine.

Florida Building Code – Wind-Design Standards

The bill authorizes the Florida Building Commission to amend the wind design standards contained in the Florida Building Code subject to the amendatory requirements contained in s. 553.73, F.S. In addition, the bill specifically authorizes the commission to identify within the code those areas of the state from the eastern border of Franklin County to the Florida-Alabama line (the Panhandle region) that are subject to the windborne debris requirements of the code.

The commission's initial designation of windlines for this region must address the results of the Florida Panhandle Windborne Debris Region study and is only subject to the rule adoption procedures contained in chapter 120, F.S. The bill stipulates that new windborne debris requirements for the Panhandle region may not take effect for six months

following completion of rule-making or May 31, 2007, whichever is sooner. This authorization expressly supersedes the limitations contained in section 109 of chapter 2000-141, L.O.F.

The bill would allow the commission to eliminate or revise the existing "Panhandle exception" (limiting wind-borne debris requirements to within 1 mile of the coast) and amend the wind design standards applicable to the Panhandle region to incorporate the current edition of the national model building code engineering standard (American Society of Civil Engineers Standard 7, 2002 Edition). This would subject new construction in the Panhandle region to the same windborne debris requirements (enhanced door and window protection) applicable to other areas of the state. The bill also authorizes the commission to utilize expedited rule-making procedures (chapter 120, F.S., rather than s. 553.73, F.S.) in implementing this provision.

The bill amends s. 553.71, F.S., to delete the current statutory definition of "Exposure category C." This provision would allow the commission to define this category through its code development processes.

Elevator Safety

The bill amends s. 399.15, F.S., to extend from June 30, 2006, to September 30, 2006, the date by which all elevators that allow public access in buildings that are least six stories high, must be keyed to allow operation with a master key in fire emergency situations. This provision applies to buildings on which a building permit has been issued. The bill removes the provision that provides that the requirement applies to buildings upon which construction has begun. The bill also extends the compliance deadline for existing buildings from July 1, 2007 to October 1, 2009.

Building Code Development and Interpretation

The bill revises the existing code development process to enable the commission to address certain issues through streamlined amendatory procedures. Under this proposal, the commission would be authorized to amend the code subject only to the administrative rule adoption procedures of chapter 120, F.S. (rather than the more time-consuming code development requirements of chapter 553, F.S.). Following Commission approval and publication on the Commission's website, authorities having jurisdiction to enforce the code would be authorized to enforce the amendments. The bill specifies that the Commission may use this expedited process for amendments that are needed to address:

- Conflicts within the updated code;
- Conflicts between the updated code and the Florida Fire Prevention Code;
- The omission of Florida-specific amendments that were previously adopted in the code if the omission is not supported by a specific recommendation of a technical advisory or a particular action by the commission; or
- Unintended results from the integration of Florida-specific amendments that were previously adopted by the model code.

The bill amends s. 553.775, F.S., to restrict interpretations of the Florida Accessibility Code for Building Construction. Based on the historical practice and present concerns of

advocates for the disabled, the commission has recommended restricting interpretation of the accessibility provisions.

The bill amends s. 553.791, F.S., to provide that after construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the building owner or his or her contractor may elect to use a private provider for building inspection services. The owner or contractor must notify the local building official of their intention to use a private provider at least seven business days prior to the next scheduled inspection and must comply with existing notice requirements.

Fire Prevention Code and Firesafety Equipment

The bill amends s. 633.0215, F.S., to revise the existing Florida Fire Prevention Code development process to enable the State Fire Marshal to amend the Florida Fire Prevention Code through a streamlined amendatory procedure. The bill authorizes the State Fire Marshal to amend the Fire Prevention Code subject only to the rule adoption procedures of chapter 120, F.S. (rather than the requirements of chapter 633, F.S.). Following State Fire Marshal approval and publication on the State Fire Marshal's website, authorities having jurisdiction to enforce the Florida Fire Prevention Code would be authorized to enforce the amendments. The bill specifies that the State Fire Marshal may use this expedited process for amendments that are needed to address:

- Conflicts within the updated Florida Fire Prevention Code;
- Conflicts between the updated Florida Fire Prevention Code and the Florida Building Code;
- The omission of Florida-specific amendments that were previously adopted in the Florida Fire Prevention Code if the omission is not supported by a specific recommendation of a technical advisory or a particular action by the commission; or
- Unintended results from the integration of Florida-specific amendments that were previously adopted by the model code.

The bill amends s. 633.021, F.S., to define the term "fire hydrant" to mean: a connection to a water main, elevated water tank, or other source of water for the purpose of supplying water to a fire hose or other fire protection apparatus for fire-suppression operations.

The bill amends s. 633.082, F.S., to require the inspection of fire hydrants installed in public and private properties, except one-family or two-family dwellings. The inspection must follow the nationally recognized inspection, testing, and maintenance standards. The inspector must provide a copy of the inspection report to the hydrant owner and the local authority having jurisdiction.

The bill clarifies that the maintenance of fire hydrant and fire protection systems and any corrective actions required are the responsibility of the owner of the system or hydrant. Current law does not reference the fire hydrant.

The bill requires that each fire hydrant must be opened fully each year for at least one minute for the purpose of clearing all foreign materials from the hydrant. It also requires that fire hydrants that have been made nonfunctional by the closing of the water supply valve must be immediately tagged with a red tag that is boldly marked "nonfunctional." The local fire authority must be notified that the hydrant is nonfunctional.

Finally, the bill repeals s. 633.5391, F.S., which requires that fire hydrant backflow prevention assemblies must be inspected once every three years.

SB 2000 – Ethics of Public Officers and Employees: Chapter Law #2006-275, Laws of Florida; Effective October 1, 2006, except as otherwise provided; by Senator Posey.

The bill prohibits persons who are registered to lobby the legislative and executive branches of state government, or any local governmental entity, from serving as members of the Commission on Ethics.

The bill also prohibits any member of the Commission from lobbying the Legislature or executive branch of state government, or any local governmental entity, while serving as a member of the Ethics Commission.

The bill extends the Little Hatch Act to prohibit all state employees, or employees of any political subdivision, from being involved in political campaigns while on duty.

The bill amends the prohibition against using inside information gained while in a public position to benefit oneself or another, clarifying that the prohibition applies to former employees and officers—except for information relating exclusively to governmental practices.

The "revolving door" prohibition against representing a client before one's former agency is extended to include other-personal-services (OPS) employees and any agency employees whose positions were transferred from Career Service status to Select Exempt Service status under the "Service First" law.

Additionally, the bill applies the two-year prohibition for former local elected officials representing another person or entity to prohibit representation before the government body *or agency* they served (which would include staff), rather than just the body of which they were a member.

The bill further revises post-employment restrictions to allow state employees whose jobs are privatized to work for a private entity under certain circumstances.

Finally, the bill excludes from the definition of "expenditure" in the lobbying context certain campaign related contributions and expenditures.

SB 2114 — PIP - Reenactment of No-Fault Law: ~~Chapter Law #2006-___, Laws of Florida; Effective October 1, 2006; by Senate Banking and Insurance Committee.~~ – **VETOED 5/31/06**

Reenactment and Future Repeal of Florida's No-Fault Law
This bill reenacts the Florida Motor Vehicle No-Fault Law, by repealing section 19 of chapter 2003-411, L.O.F., which would have repealed the No-Fault Law, effective October 1, 2007. However, the bill provides for future repeal of the No-Fault Law, effective January 1, 2009, unless reviewed and reenacted by the Legislature prior to that date.

Motor Vehicle Insurance Fraud
This bill amends s. 817.234, F.S., to provide that it is a second degree felony (with a two year minimum mandatory term of imprisonment) to plan or organize a scheme to create documentation of a motor vehicle crash that did not occur for purposes of a claim for personal injury protection (PIP) benefits or a motor vehicle tort claim. This penalty currently applies to staged or intentional motor vehicle accidents. The bill expands the applicability of the motor vehicle insurance fraud statute under s. 817.2361, F.S., to provide that any person who creates or presents false or fraudulent "proof" of motor vehicle insurance commits a third degree felony.

The bill specifies information that must be contained in a motor vehicle crash report form under s. 316.068, F.S., to include the time, date and location of the crash; description of the vehicles involved; names and addresses of all drivers, passengers, witnesses and parties involved; name, badge number, and law enforcement agency of the officer investigating the crash; and the names of the insurance companies for the respective parties involved in the crash. The bill states that the absence of information in a crash report regarding the existence of passengers in the vehicles involved in a crash constitutes a "rebuttable presumption" that no such passengers were involved in the reported crash. The bill amends s. 322.26, F.S., to require the Department of Highway Safety and Motor Vehicles to revoke the driver's license of any person convicted of these specified offenses: soliciting any business from a person involved in a motor vehicle accident for the purpose of making, adjusting or settling a vehicle tort claim under s. 817.234(8), F.S.; participating in a staged motor vehicle accident under s. 817.234(9), F.S., or for brokering health care patients under s. 817.505, F.S.

Funding for the Division of Insurance Fraud
The bill appropriates for FY 2006-07, the sums of $510,276 in recurring funds and $111,455 in nonrecurring funds from the Insurance Regulatory Trust Fund to the Division of Insurance Fraud within the Department of Financial Services for the purpose of providing a new fraud unit within the division consisting of six sworn law enforcement officers, one non-sworn investigator, one crime analyst, and one clerical position. A total of nine FTEs and associated salary rate of $381,500 are authorized. The legislation also appropriates for FY 2006-07, the sums of $415,291 in recurring funds and $52,430 in nonrecurring funds from the Insurance Regulatory Trust Fund to the Division of

Insurance Fraud for ten FTE positions and associated salary rate of $342,500. Both appropriations are for the purposes of deterring insurance fraud under s. 626.989, F.S.

SB 2432 – Medical Travel Insurance: Chapter Law #2006-173, Laws of Florida; Effective July 1, 2006; by Senator Constantine.

The bill is cited as the "John F. Cosgrove Act" and applies to prepaid limited health service contracts regulated by the Office of Insurance Regulation under chapter 636, F.S. The legislation provides that a person registered as a seller of travel with the Department of Agriculture and Consumer Services under s. 559.928, F.S., is not required to be licensed as a health insurance agent in order to sell prepaid limited health service contracts that cover the cost of air ambulance transportation. Air ambulance transportation services are licensed by the Department of Health under s. 401.251, F.S. However, the prepaid limited health service contract for such coverage is subject to all applicable provisions of chapter 636, F.S.

SB 2434 –Travel to Terrorist States: Chapter Law #2006-54, Laws of Florida; Effective July 1, 2006; by Senator Haridopolos.

The bill prohibits a community college or state university from using certain funds to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of, activities related to, or involving, travel to a terrorist state. The bill also prohibits a private college or university in Florida that receives state funds from using those funds for travel to a terrorist state.

The bill defines a "terrorist state" as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism. Currently, the State Department assigns that designation to six countries: Cuba, Iran, Libya, North Korea, Sudan and Syria.

The bill also prohibits the authorization of state-funded travel expenses for public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state

SB 2518 –Contractual Services/State Agency: Chapter Law #2006-224, Laws of Florida; Effective June 15, 2006; by Senator Argenziano.

The bill creates the Council on Efficient Government, and provides for the membership, powers, and duties of the council. The bill requires that an agency develop a detailed business case to outsource before a service or activity may be outsourced, and requires that an agency submit the business case to outsource to the council, the Governor, and the Legislature, before releasing the solicitation or executing the contract, when the contract will cost more than $1 million in any fiscal year. For proposals to outsource costing more than $10 million in any fiscal year, the council must conduct an analysis and provide it, before the agency releases the solicitation, to the agency proposing the outsourcing, the Governor, and the Legislature.

The bill provides specific information that must be included in all business cases to outsource, and prescribes specific additional contract requirements applicable to outsourcing contracts.

The bill provides that on contracts valued at greater than $10 million, certain contract amendments may not be executed before the agency first submits a written report on contract performance to the Governor and the Legislature. The bill specifies that when a contract is valued in excess of $1 million, one of the negotiators must be certified as a contract negotiator by the DMS, and when a contract is valued in excess of $10 million, one of the negotiators must be certified as a Project Management Professional. The bill requires that solicitations include a provision that respondents to a solicitation may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, any employee of the executive or legislative branch concerning the solicitation, except in writing to the procurement officer or as provided in the solicitation.

The bill provides that a contract may not prohibit lobbying by a contractor of the executive or legislative branch concerning the contract, during the contract term.

The bill specifies restrictions on contractor supervision of state employees, and prohibits contractor involvement in procurements in which the contractor has an interest.

The bill repeals s. 14.203, F.S., which provides the duties and functions of the State Council on Competitive Government.

The bill appropriates funds and authorizes positions for the Council on Efficient Government, and for the training of Project Management Professionals.

The bill provides that any agency under the control of the Attorney General, the Chief Financial Officer, or the Commissioner of Agriculture is subject to this act.

SB 2548 — State Financial Matters: Chapter Law #2006-122, Laws of Florida; Effective July 1, 2006, except as otherwise provided; by Senator Carlton.

This bill amends the state's planning and budgeting statute, chapter 216, F.S., and various other statutes which contain financial accounting and budgetary provisions.

Provisions Relating to the State's Financial Accounting Policies:
The bill changes responsibility from Auditor General to Chief Financial Officer for establishing capitalization thresholds, inventory requirements and recording of property in financial systems.

Provisions Relating to the Estimating Conferences:
The bill reorganizes provisions relating to estimating conferences and provides consistency among all estimating conferences regarding enumerated principals: the staff

of the Executive Office of the Governor, the coordinator of the Office of Economic and Demographic Research and staff of the House of Representatives and the Senate.

Provisions Relating to Agency Submittal of Performance Measures:
The bill changes the submittal and review process for agency performance measures and standards. The bill requires performance measures and standards be submitted with the agencies long range program plans rather than their legislative budget requests. Agencies and the judicial branch may request changes to their measures throughout the year based on the legislative review and objection procedures in s. 216.177, F.S. It also provides that the legislature may require an agency to update its measures and standards and provides that the Legislature can direct the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to review the adequacy of measures and standards at any time.

Provisions Relating to the State's Budgeting Process:

- The bill establishes a "reserve" for "salary rate" to withhold rate from an agency until conditions are met.
- Requires that trust fund loans approved by the Governor under s. 215.18, F.S., also be placed on a 3 day legislative consultation pursuant to s. 216.177, F.S., notice and objections procedures.
- Clarifies that the Legislative Budget Commission approves transfers from unallocated funds as authorized by chapter 252, F.S., to provide funds for disaster response and recovery.
- Requires the Governor and the Chief Financial Officer to make changes to the Legislature's original approved operating budget as directed by the presiding officers.
- Prohibits agencies from implementing general salary increases or pay additives not authorized by the Legislature.
- Repeals obsolete and redundant sections (repeals s. 216.346, F.S., relating to state agencies charging reasonable administrative costs, and s. 255.258, F.S., relating to a shared savings program used for state-owned facilities).
- Modifies ss. 287.063, and 287.064, F.S., to require certain state agency contracts to be supported by current appropriations.
- Requires information regarding any proposed consolidated financing of deferred payment commodity contracts to be submitted in the agency legislative budget requests.
- Broadens the investment authority of the State Treasury as specified in s. 17.57, F.S.
- Contains language relating to county maintenance of effort requirements for Article V of the Florida Constitution concerning judiciary funding.
- Modifies the certification forward process to allow "incurred obligations" to be carried forward.

HB 7035 — Motor Vehicle Crash Reports (Public Records): Chapter Law #2006-260, Laws of Florida; Effective October 1, 2006; by House Governmental Operations Committee and Representative Rivera.

The bill reenacts and reorganizes the public records exemption contained in s. 316.066(3), F.S., related to motor vehicle crash reports. This law requires law enforcement officers to file written reports of motor vehicle crashes, which are public records. However, s. 316.066(3)(c), F.S., provides that crash reports that identify the parties to a car crash by revealing the identity, the home or employment telephone number, the home or employment address, or other personal information, concerning the parties to motor vehicle crashes that are received or prepared by any agency which regularly receives or prepares information concerning the parties to motor vehicle crashes are confidential and exempt from public disclosure. This information is to remain confidential and exempt for 60 days after the date the report is filed. The primary policy reason for closing access to these crash reports for 60 days to persons or entities not specifically listed is to protect crash victims and their families from illegal solicitation by "runners" for attorneys or medical providers, who may entice the victims to file fraudulent or inflated insurance claims.

HB 7049 — Surplus Lines Insurance (Public Records): Chapter Law #2006-188, Laws of Florida; Effective October 1, 2006; by House Governmental Operations Committee and Representative Rivera.

This bill reenacts s. 626.921(8), F.S., which contains a public records exemption for certain information concerning surplus lines insurance, which is specific to a particular policy or policyholder and is submitted to the Florida Surplus Lines Service Office (FSLSO) or the Department of Financial Services or which is available for inspection by the department.

The bill also makes technical and clarifying changes to the exemption. Surplus lines insurance is insurance coverage provided by a company that is not licensed in Florida, but is allowed to transact insurance in the state as an "eligible" surplus lines insurer. The purpose of the surplus lines law is to provide the insurance purchasing public with access to insurers that are not authorized to transact business in Florida when certain insurance coverages cannot be obtained from Florida-authorized insurers. Surplus lines agents are authorized to handle the placement of insurance coverages with surplus lines insurers, and are required to report and file with the FSLSO, a copy of, or information on, each surplus lines insurance policy.